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SENATE



SÉNAT

CANADA



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(HANSARD)

Thursday, March 1, 2012

The Honourable NOËL A. KINSELLA
Speaker

This issue contains the latest listing of Senators,
Officers of the Senate and the Ministry.

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Thursday, March 1, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

ROUTINE PROCEEDINGS

EXPORT DEVELOPMENT CANADA

CANADA ACCOUNT OPERATIONS—
2010-11 ANNUAL REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the report by Export Development Canada on Canada Account operations for the fiscal year 2010-11.

[English]

CANADA-CHINA LEGISLATIVE ASSOCIATION CANADA-JAPAN INTER-PARLIAMENTARY GROUP

GENERAL ASSEMBLY OF THE ASSOCIATION
OF SOUTHEAST ASIAN NATIONS
INTER-PARLIAMENTARY ASSEMBLY,
SEPTEMBER 18-24, 2011—REPORT TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-China Legislative Association and the Canada-Japan Inter-Parliamentary Group respecting its participation at the Thirty-Second General Assembly of the Association of Southeast Asian Nations (ASEAN) Inter-Parliamentary Assembly, held in Phnom Penh, Cambodia, from September 18 to 24, 2011.

QUESTION PERIOD

VETERANS AFFAIRS

DISABILITY PENSION PROGRAM

Hon. Robert W. Peterson: Honourable senators, my question is to the Leader of the Government in the Senate. Once again, the issue of handling veterans' disability claims has surfaced with the nation's ombudsman for veterans harshly criticizing the federal department for failing to properly explain why some soldiers have been denied disability coverage and for making it almost impossible to appeal the decisions. Unfortunately, the handling

of benefits for disabled veterans by this government has been an ongoing controversy in Canada, which has led to a class action suit against Ottawa by former soldiers.

This is partially a result of Veterans Affairs' failing to properly advise the most severely injured soldiers about the financial support available to them. The ombudsman's office has stated that even their staff cannot understand government letters denying soldiers benefits. This is just not right.

Will the minister encourage the Minister of Veterans Affairs to move quickly in dealing with the recommendations in the ombudsman's report, starting with the recommendation that reasons for all disability coverage decisions should be written in plain language with a clear explanation of how the individual assessment was made? Each letter should also include a notice of the right to appeal.

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. I wholeheartedly agree with what the honourable senator said. The government accepts the report and the recommendations of the veterans' ombudsman, which covers the period over the past decade.

Most people can attest to the fact that often letters from the government can be rather confusing and hard to understand, so I can totally sympathize with these veterans. It is important to point out, honourable senators, that the Minister of Veterans Affairs, Mr. Blaney, has stated publicly that he accepts the ombudsman's report. He agrees with the recommendations and has instructed the Department of Veterans Affairs not only to write their responses in clearer, more concise language and give reasons that are understandable but also to point out to veterans their right to appeal the decision.

AGRICULTURE AND AGRI-FOOD

CANADIAN FOOD INSPECTION AGENCY

Hon. Terry M. Mercer: Honourable senators, Mr. Bob Kingston, National President of the Agriculture Union, has called for increased food inspection of food imports. He told a February 28 news conference in Vancouver that 2 per cent of all foods imported to Canada are currently inspected — 2 per cent, honourable senators. Meanwhile, 30 per cent of the food we eat is imported — 30 per cent. I quote Mr. Kingston:

The Canadian Food Inspection Agency is not presently inspecting these products to determine what insecticides, pesticides or cosmetic treatments have been applied in the source countries. The Agency is well aware of this growing problem. However, its request for greater resources for import inspection will likely fall on deaf ears, as the Conservative government seems intent on cutting overall food safety funding by 10 per cent in the upcoming federal budget.

• (1340)

Honourable senators, we therefore need more inspection of imports, but the government is cutting the budget of CFIA so one would assume there will be fewer inspectors.

How does the Leader of the Government expect Canadians to feel safe about their food when the government's own agency does not have the resources to do so?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, Mr. Bob Kingston is not the most objective person to rely on. He has been very critical and often has a significant amount of misinformation.

Budget 2011 included an additional \$100 million over five years to enhance food safety. We are moving forward with all 57 recommendations of the independent investigator in the Weatherill report and have provided the Canadian Food Inspection Agency with a net increase of 733 inspection staff. A report on OECD countries recognized Canada's superior food safety system and it ranks us as the best in the world on food recalls.

I am well aware of Mr. Kingston's ongoing criticism of the government. I do not think it is fair or valid, and the facts speak for themselves.

Senator Mercer: Mr. Kingston has a role to play as the National President of the Agriculture Union. That is his role to play and I respect that.

Honourable senators, the answer that the leader gives does not make me feel any safer because we know the axe is about to fall and, when the axe falls, there will be fewer inspectors. No matter what they promised, at the end of the day there will be fewer people inspecting our food.

One of the things about this and many other issues is that many of the problems with food inspection are preventable. Responding to a crisis rather than preventing one seems to be how this government operates.

What happens when Canadians fall ill because of the government's neglect? So often the government forgets the human impact of the cuts it is making. Does the Leader of the Government agree that it is only safer and cheaper in the long run to prevent tragedies rather than to deal with the fallout from one?

Senator LeBreton: Honourable senators, I do not answer hypothetical questions. There is no reason to believe the honourable senator's characterization of what may be coming down the road.

The government has and will continue to make food safety and the safety and security of Canadians a top priority. Clearly, the adding of members to the inspection staff is a demonstration of our commitment. Clearly, we would not be reported by the OECD as having the best food recall system in the world if we followed the path that we are accused of by Senator Mercer.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Fred Wah, Parliamentary Poet Laureate of Canada.

On behalf of all senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Agustin Lage, Member of the National Assembly of the Popular Power of the Republic of Cuba and Chair of the Cuba-Canada Parliamentary Friendship Group.

Again, on behalf of honourable senators, welcome to the Senate of Canada.

Hon. Senators: Hear, hear.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table the answer to the oral question asked by the Honourable Senator Sibbeston on February 1, 2012, concerning natural resources: regulatory reform.

ENVIRONMENT

REGULATORY PROCESS

(Response to question raised by Hon. Nick G. Sibbeston on February 1, 2012)

Resource-based projects are an important driver of job creation and long-term economic growth for Canada. Over the next 10 years, more than \$500 billion is expected to be invested in Canada's mining and energy sectors.

To fully capture the benefits of Canada's natural resource sector for all Canadians requires a renewed and modern regulatory system that enables growth and investment, protects the environment, and ensures socially-responsible development.

Improving the performance of our regulatory system has been a priority for this government from the beginning. In recent years, important changes have been introduced, including the creation of the Major Projects Management Office in 2008 and targeted amendments to the *Canadian Environmental Assessment Act* introduced in Budget 2010. However, more fundamental changes are required to meet Canadians' objectives of jobs growth and protection of the environment.

We will bring forward comprehensive legislative and regulatory changes to address these concerns and modernize the federal regulatory system for project reviews. These

changes will position Canada for job creation and long-term growth, ensuring that our resource sector continues to be an attractive place to invest.

The Government has been listening to issues and proposals raised by stakeholders through venues such as the Energy and Mines Ministers' Conference and the recent Parliamentary Review of the *Canadian Environmental Assessment Act*.

We have heard that unnecessary delays are jeopardizing the economic viability of major projects and harming Canada's reputation as an attractive place to invest. Beginning-to-end timelines for all review process would avoid long delays, without compromising environmental protection.

We also heard that the Government needs to focus its resources where they matter most, on major projects that potentially have the greatest impact on the environment as opposed to small, routine projects that pose little risk.

Finally, we know that federal and provincial regulatory review processes need to be better aligned and that new measures are required to facilitate a more seamless integration across jurisdictions.

All governments have indicated an urgent need to act in an efficient and cooperative manner. Our collective goal is simple: one project, one review.

Timely and responsible development of our natural resources in all regions of Canada will benefit Canadians through jobs, growth and the revenue needed to support important programs like health, education and pensions.

[English]

SAFE STREETS AND COMMUNITIES BILL

PRESENTATION OF PETITION

Leave having been given to revert to Presentation of Petitions:

Hon. Jane Cordy: Honourable senators, I have the honour to present a petition from Canadian citizens concerning Bill C-10, the proposed Safe Streets and Communities Act. The petition states that Bill C-10 ignores proven crime prevention strategies in favour of ideological policies which were shown to fail in other jurisdictions, while placing a substantial burden on taxpayer funds. Therefore, the petitioners call on all senators to vote against Bill C-10, the proposed Safe Streets and Communities Act.

[Translation]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that when we proceed to Government Business, the Senate will address the items in the following order: first, Motion No. 31, time allocation; second, debate on the adoption of the Ninth Report of the Standing Senate Committee on Legal and Constitutional Affairs; then, Bill C-10, followed by all other items according to the order in which they appear on the Order Paper.

[English]

The Hon. the Speaker: Honourable senators, I remind you that pursuant to the rules the time for debate on the following motion is two and a half hours; the time limit for the respective leaders is 30 minutes and for all honourable senators it is 10 minutes.

[Translation]

SAFE STREETS AND COMMUNITIES BILL

ALLOTMENT OF TIME FOR DEBATE— MOTION ADOPTED

Hon. Claude Carignan (Deputy Leader of the Government), pursuant to notice of February 29, 2012, moved:

That, pursuant to rule 39, a single period of a further six hours of debate, in total, be allocated to dispose of both the report and third reading stages of Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts;

That, if debate on report stage comes to an end before the expiration of the six hours, the Speaker shall put forthwith and successively every question necessary to dispose of report stage in accordance with rule 39(4);

That, if debate on third reading comes to an end before the expiration of the six hours, the Speaker shall put forthwith and successively every question necessary to dispose of third reading in accordance with rule 39(4); and

That at the expiration of the six hours of debate the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively all questions necessary to dispose of report stage, if not yet disposed of, and third reading in accordance with rule 39(4).

He said: Honourable senators, I am pleased to rise to explain the importance of the time allocation motion in relation to the debate on Bill C-10.

First of all, I would like to thank all members of the standing committee that examined this bill. The committee heard from a number of witnesses and Senator Wallace has reported on the amendments that were made. The committee worked diligently to produce this excellent report. Thus, it would be fair to say that many honourable senators have already spent hours and hours reflecting on each clause of the bill.

Furthermore, we should remember that Bill C-10 contains a series of measures that we have debated in this chamber recently. These measures have been put together and added to others that will improve Canadians' safety.

Canadians gave us a clear mandate by electing a strong majority government last May because they believe that we are committed to ensuring their safety. We promised Canadians that we would pass this bill within 100 days. As in other matters, we will deliver the goods.

• (1350)

Keeping our promises is the best way to prevent people from becoming disillusioned with politics. The best way to protect public safety and make the justice system fairer and more effective is to pass Bill C-10. Today, we are taking great strides in that direction.

That is what Canadians expect of us. They have waited long enough.

Therefore, let us adopt this motion to prove that we have understood the message they sent last May. Let us keep our promise to make Canada a safer and fairer place. It is our duty as parliamentarians. I am asking you to join me in supporting this motion so that we can move through all the stages leading to the passing of this long-awaited law.

[English]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, this is not the first time — and I suspect it will not be the last time — that I will speak on a time allocation motion moved by this government. I readily acknowledge that there may be circumstances in which proceeding in this way is justified, for instance when a deliberate filibuster drags on and on, or where there is some public urgency for the legislation in question. However, that is not the case with Bill C-10.

Following its second reading, the Senate asked its Committee on Legal and Constitutional Affairs to examine Bill C-10 so that we in this chamber could better focus our debate and consideration of the legislation. Our committee heard from over 100 witnesses during almost 60 hours of testimony. It then presented its report containing a number of amendments, as well as some observations that were unanimously agreed to by its members.

Our committee did what we asked it to do, but yesterday, after less than an hour of debate on its findings — really just an explanation of the amendments and observations by the chair and a few comments from me — the government had heard enough. Senator Carignan gave notice of this motion to limit further debate.

Not only did he give his notice of motion with unseemly haste, but he also then gave us only the very minimum time allowable for any additional discussion.

Rule 39(2) states that “the motion shall provide for at least . . . a single period of a further six-hours debate, in total, to dispose of both the report and the third reading stages of a public bill.”

That is exactly what Senator Carignan's motion gives to us all — six hours, not a minute more.

After barely 30 minutes of debate on an omnibus bill containing more than 200 clauses, the government decided there would be only six more hours of debate. The government had the option of giving more time under rule 39. It could have given 12, 10, or even 7 hours, but that is not what it chose to do.

We have exactly six hours to debate and discuss this omnibus crime bill before it is brought to a final vote — six hours, 360 minutes, not a minute more.

An Hon. Senator: That is after six years.

Senator Cowan: Each senator, apart from the two leaders, will be permitted, under our rules, to speak for a maximum of 15 minutes after the committee's report is brought forward for debate later today. Twenty-four senators speaking for the maximum allowable time will mean that almost 80 of us will have no opportunity whatsoever to participate in the debate.

An Hon. Senator: Shameful.

Senator Cowan: With this motion, Senator Carignan is telling almost 80 of his colleagues that the government has absolutely no interest in listening to what they have to say.

Senator Cordy: Shame.

Senator Cowan: As I say, Bill C-10 is an omnibus bill. It combines nine bills that were previously brought by the Harper government in different sessions and in different Parliaments, none of which were passed into law and many of which were never examined in this chamber. It will enact significant amendments to some eight statutes, create an entirely new act, and make consequential amendments to even more statutes.

I do not believe that any committee member brought to the hearings the briefing book prepared by the Department of Justice. It was simply too massive to carry. The legislative summary prepared by the Library of Parliament ran to over 150 pages.

Honourable senators, omnibus bills are inherently dangerous creatures. They allow dangerous clauses to be buried, as we in this chamber have discovered on several occasions in recent years. They do not allow interested Canadians and others with serious knowledge of particular issues to be heard. Witnesses frequently find their voices lost on large panels. Other potential witnesses are left out in the cold, prevented by so-called time constraints from testifying altogether.

Let us not lose sight of the content of this bill. It proposes amendments that will result in many more Canadians being sent to prison. Honourable senators, if any bill deserves careful scrutiny and debate, it must be a bill that will deprive our citizens of their liberty.

We all know that this bill is contentious, and we have all received hundreds of emails and other communications from very concerned Canadians —

An Hon. Senator: Thousands.

An Hon. Senator: Thousands.

An Hon. Senator: Thousands.

Senator Cowan: Asking us — pleading with us — to reflect carefully on the proposals in this bill.

How insulting to these people to then invoke closure, to shut down debate, to limit it to the maximum degree possible, and to do so immediately, after the briefest of explanations.

The Canadian Bar Association said:

The CBA Section is of the view that bundling several critical and entirely distinct criminal justice initiatives into one omnibus bill is inappropriate and not in the spirit of Canada's democratic process.

I agree. This is not the right way to craft the best laws for Canadians, particularly ones dealing with the Criminal Code. This is not how our legislative process was designed to work.

Mr. Harper understood that — at least he did when he was in opposition. In 1994, he stood in Parliament and vehemently imposed the use of an omnibus bill in, as he put it, the interests of democracy.

Unfortunately, since becoming prime minister, he appears to have had a change of mind, as well as a change of heart. He has presented so many omnibus bills of such astonishing and unprecedented breadth and length that our former colleague Senator Murray once suggested that there could come a day when the Harper government would table only one bill in Parliament — a super-bill encompassing the whole of its legislative agenda for the year.

An Hon. Senator: Good idea.

Senator Cowan: As I said when I began my remarks, I have some sympathy for a government that finds it needs to move forward more quickly with a piece of legislation because of a pressing public need. However, with Bill C-10, there is no such pressing need. The real reason for the supposed urgency is nothing more than the Conservatives' election pledge to pass this omnibus bill within the new Parliament's first 100 days.

Why 100 days, honourable senators? Why 100 instead of 75 or 90 or 190? Nothing in the bill demands that it be passed within 100 days. Indeed, many provinces and territories have been

begging the federal government not to bring all parts of the bill into force too quickly as they are simply not prepared and equipped to deal with the aftermath.

We were actually told by officials, on the last day of our committee hearings, that Bill C-10 will in fact be phased in over the months ahead.

Because of an absolutely arbitrary election commitment, we have found ourselves, in this place, unable to do the complete and proper study that this bill requires. Far too many eminent Canadians with deep knowledge of the issues in the bill could not be heard by our committee. These are people like Anthony Doob, the highly respected criminologist, who has devoted his life to these issues, and David Daubney, the former Progressive Conservative MP, chair of the Justice Committee in the other place, who went on to work with the Justice Department on sentencing issues. These are just two of the witnesses I would have wanted to hear from on this legislation.

Those witnesses who did appear had to present their submissions on this massive bill in five to seven minutes. How do you sum up views of all of these diverse parts, these far reaching provisions, in just five to seven minutes? Senator Wallace was ever polite and tried to allow as much latitude as he could, but repeatedly we had to end sessions before all senators could ask their questions.

The two federal ministers who appeared, Justice Minister Nicholson and Public Safety Minister Toews, did so very briefly. Several senators, including our colleague Senator Nolin, did not get to ask any questions before the ministers had to run from the committee room, apparently for a vote.

One would have hoped that on such an important, far-reaching bill they could have found time to return, but that was not to be. Now, of course, this debate is being shut down.

• (1400)

Honourable senators, submissions from witnesses and groups who were unable to appear because of the artificial time constraints have continued to come in, long after the committee completed its study of the bill. We all have binders of submissions — hundreds and hundreds of pages of transcripts. If we are to do our job as legislators, each of us should carefully study them and weigh the arguments presented before we vote on the bill.

Have all senators who were not on the committee been able to read all the material? Will this truncated debate be sufficient to inform them of all the complex implications of this mammoth bill? I doubt it. We should be very clear: We are not being allowed to do our job as parliamentarians with this bill. That alone should give each and every one of us pause before we vote on this motion.

The Canadian Bar Association gave us excellent advice in its submission when they stated:

The politics of criminal justice should not trump the evidence and knowledge as to what are the most effective criminal justice policies and the best use of public resources.

In this case, honourable senators, politics has trumped good legislating. There was no legitimate reason to restrict the witness list. There was no valid reason for restricting the Senate from doing what it does best: engaging with Canadians through its committees; and there is no legitimate reason to cut off this debate today.

We saw what happened in the other place because of the government's unseemly haste to ram this bill through. In committee, my colleague Irwin Cotler proposed a number of reasonable, evidence-based amendments designed to improve the bill. Every one was voted down by the Conservative majority on the committee — almost always without even an attempt to present any argument why the amendment was ill advised. Apparently, it was enough that it was proposed by a Liberal.

We all know what happened. After the committee concluded its voting on the clauses, the government realized, suddenly, that some of the amendments proposed by Mr. Cotler would really improve the bill. Then they tried to reintroduce them at report stage, but they were ruled out of order by their Speaker on procedural grounds. So they had to be introduced in our committee.

Thank goodness for the Senate, but what a waste of time — precious time — had this bill actually been urgent for Canadians.

Honourable senators, there simply is not the time for each of you to read all the transcripts, let alone the many thoughtful submissions that Canadians and, indeed, eminent international authorities have sent to us. Let me urge you to read at least the submission prepared by the Canadian Bar Association.

The CBA, as many of you know, is a non-partisan group representing Crown prosecutors, defence attorneys, jurists and law professors across the country. I found their brief carefully and thoughtfully prepared, and it covers pretty much the entire bill. I wish you could read all of the submissions — but, if you only have time to read one, I recommend that one.

If I had to pick a single article to read, it would be the important one that appeared recently in the *National Post*. Its three authors are among the most knowledgeable people on our criminal justice system: the Honourable Roy McMurtry, former Attorney General of Ontario in the Progressive Conservative government of former Premier Bill Davis and the former Chief Justice of Ontario; Edward Greenspan, a highly respected and experienced criminal lawyer; and Anthony Doob, Professor Emeritus of Criminology at the University of Toronto. The article appeared on February 14 and was entitled, "Harper's incoherent crime policy." They argue that in all the talk about Bill C-10, it would be easy to miss the real significance of Prime Minister Harper's crime policy. They say that the issue should not be this provision or that — six or nine months in prison for growing six marijuana plants, et cetera. They say:

The more fundamental issue that crime policy should address is basic: How do we, as Canadians, want to respond to those who have committed crimes?

They then state some basic facts — simple truths as they put it — that they say need to be considered in making sensible crime policy. It is things like the following: Many young Canadians commit relatively minor offences — drug possession, breaking and entering, shoplifting — that could see them imprisoned. As people get older, they become dramatically less likely to commit offences. In many cases, if someone avoids reoffending for five to fifteen years, their odds of committing a crime again become the same as the segment of the population that had never offended. There are known, effective ways to reduce crime. Changing criminal laws alone will have little if any impact on crime.

McMurtry, Greenspan and Doob argue that:

The Harper crime policy is less than the sum of its parts because it does not add up to a crime policy that addresses, or even acknowledges, these basic facts. It squanders resources that could be used to reduce crime. . . .

But the Harper crime policy is more than the sum of its parts because it tells us that the government is committed to ignoring evidence about crime, and does not care about whether the criminal justice system is just and humane.

The writers conclude:

The Tories are right that their incoherent crime plan is a major shift in Canadian justice policy. But this shift will not serve us well.

Honourable senators, the government has ignored the evidence in drafting its incoherent crime policy, and now it is doing its utmost to prevent us from even reading the evidence in assessing that policy. Instead of allowing us, as legislators, an opportunity to consider and debate what Canadians are telling us about the omnibus crime bill, the government, through Senator Carignan's time allocation motion, has brought in the guillotine.

Honourable senators, this is wrong. This is not how laws should be made in this country. This is not what Canadians expect of their legislators. This is a bad day for all of us.

[Translation]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, the motion moved by the Deputy Leader of the Government would limit debate on the omnibus crime bill at the report and third reading stage. I find it hard to believe that the members of this government, who proudly boast that they defend freedom of expression, would use any means available to them to limit the opposition senators' right to speak, particularly when no government senator has been able to provide a reasonable explanation as to why such a time allocation motion is necessary in this case.

Honourable senators, Canadians expect Parliament to carefully examine every bill that is introduced. Bill C-10 is a patchwork of nine bills grouped into one gigantic bill, and it contains legislative measures with very serious repercussions. How can we fulfil our responsibilities to all Canadians in a limited time period of six hours? Honourable senators, this is totally unacceptable.

[English]

Honourable senators, it has been stated before that one cannot justify bad policy through the repetition of a mantra about a mandate. "Safe streets and safe communities" are the shared aspiration of all Canadians and the common objective of all parliamentarians and parties. No political party can claim that it alone speaks for or cares for the safety of all Canadians. I have received literally thousands of emails from citizens in my home province of Alberta who are worried about the provisions of Bill C-10.

Since we last considered Bill C-10 in this place at second reading, much study and analysis has taken place. The Standing Senate Committee on Legal and Constitutional Affairs has done a remarkable job in examining this massive piece of legislation in a very short period of time. I would like to express my gratitude to the committee's chair, Senator Wallace, and its deputy chair, Senator Fraser, for their admirable management of this challenging undertaking. I also thank all committee members for the enormous amount of time they have put in. That said, I must say I find it disappointing that at the report stage of this bill we do not see a piece of legislation that reflects the evidence heard during the extensive hearings of the committee.

• (1410)

I would like to read just a few excerpts of testimony by witnesses at the committee hearings for this bill. The Honourable Daniel Shewchuk, Minister of Justice of Nunavut, before the committee on February 2, stated:

Bill C-10's emphasis on incarceration through its mandatory minimum sentencing provisions will guarantee an influx of prisoners into our territorial jails, which are already overcrowded and unsafe, and will create an even larger backlog in our courthouse. . . .

Bill C-10 will divert the financial resources that we require to address the root causes of criminal behaviour and to fund rehabilitation programs to support a punishment model that will add further stress to our already overburdened corrections infrastructure and courts.

. . . I ask that the implementation of this bill be put off to allow adequate time for the Government of Nunavut . . . to develop the necessary infrastructure to accommodate this new burden on our justice and corrections system.

Honourable senators, evidence heard but not heeded.

The Assembly of First Nations, before the committee on February 20, stated:

First Nations are of the view that Bill C-10 will result in compounding the already unacceptable overrepresentation of our people in the criminal justice system.

Honourable senators, evidence heard but not heeded.

The Association for the Treatment of Sex Offenders, before the committee on February 21, stated:

If our goal is to reduce crime and to reduce recidivism and to do that through mandatory minimums, through registration or through eliminating different types of structured releases

into the community, the evidence from other countries, particularly the United States, is not promising that these are indeed effective. . . . in terms of efforts to reduce recidivism, there is nothing to point us in that direction.

Honourable senators, evidence heard but not heeded.

The Centre for Addiction and Mental Health, before the committee on February 23, stated:

One of the first things we know is that for low level or less serious offending, mandatory minimums and harsher sentencing actually increases overall rates of recidivism. If the intent is to reduce recidivism rates, we will go a little in the opposite direction that we intend.

Honourable senators, evidence heard but not heeded.

Randall Fletcher, Sexual Deviance Specialist for Correctional Services of the Government of Prince Edward Island, before the committee on February 21, stated:

There is a large body of Canadian research indicating that treatment and rehabilitation programs for people who commit all categories of criminal offences, including sexual offences, are effective at reducing re-offence rates, while punishment on its own has been found to have either no effect or, in the case of more severe punishment, a negative effect of increasing rates of reoffending.

Once again, honourable senators, evidence heard but not heeded.

Much has been said about the ideological agenda of this government. The question of this chamber's mandate and role, and this government's respect for that function, has also been discussed at length. Today, with the government's much-lauded "tough-on-crime" agenda, I feel we are seeing one of the most troubling examples of this chamber being dictated to by the other place and the agenda of the majority party in that place.

My colleague Senator Di Nino, whom I hold in high regard, spoke about this concern in this place on October 23, 2003, when he said:

Too often, particularly in the past 10 or so years, this place has been dictated to by the other place. . . . We should not be denied the ability to fully, in good time, analyze the issues. . . .

I have not often spoken on this issue, but frankly, I cannot defend it.

[Translation]

Honourable senators, just yesterday a former justice of the Supreme Court, the Honourable Louise Arbour, stated that this government is making a grave mistake by establishing mandatory minimum sentences in Bill C-10.

[Senator Tardif]

The Global Commission on Drug Policy, a group of international leaders that includes Kofi Annan, former secretary general of the United Nations, Fernando Cardoso, former president of Brazil, and Paul Volcker, former chair of the U.S. Federal Reserve, announced that Canada is on the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective. Honourable senators, Canada is prompting a worldwide reaction.

Honourable senators, the Fathers of Confederation established this chamber to provide sober second thought on all bills.

[English]

A disturbing pattern has emerged since this government received its coveted majority. We have seen instances, both here and in the other place, time and again, of the government invoking procedural tactics to stymie debate on their legislation.

With this latest motion, the government will have used closure or time allocation on seven separate pieces of legislation, the latest of which includes nine bills. Time allocation is a tool afforded to the government that is to be reserved for cases where the utmost urgency is required, not to railroad those who do not agree with them.

Honourable senators, Speaker Kinsella himself has referred to the time allocation motion as a guillotine imposed by the government on this chamber. Indeed, on December 18, 2001, the Senate was considering Bill C-36, the original anti-terrorism bill introduced in the wake of the tragedies of September 11, 2001. Those were, of course, extraordinary circumstances. Yet even at this critical time, our Honourable Speaker, Senator Kinsella, who then occupied the role I hold now as Deputy Leader of the Opposition, held the view that these extraordinary circumstances were no justification for the imposition of time allocation. I quote Senator Kinsella from December 18, 2001:

The government would move the guillotine to shut down debate and bring this bill to a vote, as they did in the House of Commons. . . . They have failed Canadians. . . .

That is what we are dealing with in the motion that is before us. It is using power to secure more power. It was not necessary.

Senator Kinsella was supported in his view by Senator Di Nino, who rose in this place a few minutes later to echo the sentiments of his colleague, the Deputy Leader of the Opposition. Senator Di Nino said:

Honourable senators, of all the proceedings in this chamber, this is the one that disturbs me most. My friend, Senator Kinsella, has called this measure a “guillotine.” It has been called “closure” and “time allocation.” I call it the “muzzling of Parliament.”

Honourable senators, if we collectively decide that our time allocation provisions are to be the rule —

The Hon. the Speaker: Order, order.

[Translation]

This has nothing to do with the guillotine but the Rules of the Senate are very clear: in this type of debate, each senator has 10 minutes.

[English]

Hon. Joan Fraser: Your honour, my understanding is that although I would love to listen to my colleague Senator Tardif for more time, that is not possible. Are we correct in that assumption? She says that is correct, so I will do my poor best to follow.

Honourable senators, we are galloping through consideration of what is an extraordinarily important and complex bill. It is a bill of 104 pages and 208 articles plus a schedule, containing, as we have been reminded, nine separate bills, only two of which had ever before been considered by your Standing Senate Committee on Legal and Constitutional Affairs.

Yes, as has been said, your committee worked very hard to do what it could in considering Bill C-10 — very hard. However, that hard work does not come near what was required for this bill.

We heard testimony, by the statistics I have, for 58 and a half hours. That is an average of six and a half hours per bill, and these are complicated bills, honourable senators, which will have dramatic impact on the lives of many Canadians. We heard 123 witnesses. That is 13.6 witnesses per bill, including civil servants and three ministers, two of whom appeared together for one scant hour to testify on eight of the nine bills. What do you think they were able to tell us in that time? Not very much.

• (1420)

Were there questions we wanted to ask them about the policy reasons for various elements of the bill? Yes. Were we able to put those questions? Not very many of them.

I would like to take issue with Senator Carignan’s gracious assertion that this entire bill has been examined. The truth is, honourable senators, despite your committee’s best efforts, many important parts of this bill have gone entirely unexamined or have barely had their surface scratched.

I will give a few examples. We never even looked at the long passages in this bill concerning multiple and merged sentences or concerning administrative segregation, isolation. We barely scratched the surface of the long passages on pardons, which will now be called record suspensions. We did not do much at all looking at the extremely important and very controversial provisions limiting the availability of conditional sentences. We hardly were able to wrap our minds around even part of the quite complicated changes to the Youth Criminal Justice Act, which is itself — I am quoting someone but I cannot remember who — “impenetrable.” I challenge anyone here to read the Youth Criminal Justice Act and to understand, before reading it four or five times, exactly what it says, let alone what the amendments in Bill C-10 will achieve.

We gave practically no consideration to the quite important implications under our constitutional regime and under international law of Bill C-10. These elements were mentioned. We were told several times that we are probably in contravention of both the Constitution and international law with Bill C-10, but we did not have time to examine those issues properly.

Since the committee was obliged to conclude its work in something approaching record time, the only last recourse, the last line of defence, is this debate — not the debate on time allocation, but the debate on at report stage and at third reading. This is where the Senate should be doing its job as the chamber of sober second thought.

Many people in this chamber know a great deal about the various subjects touched upon in this important and complex piece of legislation. They will not have the time to do the necessary research, to consider the transcripts of the testimony heard by the committee and to consider the briefs. They will not have the time, in many cases, even to speak to this bill. We will not do our duty; we will not do our job. We will not do the job the people of Canada count on us to do.

The second of Senator Carignan's assertions with which I would like to take issue is, as my colleagues have already said, his assertion that Canadians want this bill. We know that some Canadians, many Canadians, want this bill. We know that many, many thousands do not. We should bear that in mind. There is absolutely not unanimous consent among the people of Canada for this bill, which is all the more reason for us to give it proper consideration — just what we are about to fail to do.

We heard no evidence, not one scintilla, not one syllable of evidence, that there is any urgency to any element of this bill. There is no excuse for doing what this chamber is about to do. We should be ashamed of ourselves.

Some Hon. Senators: Hear, hear!

Hon. Joseph A. Day: Honourable senators, I did not have the opportunity to participate in the committee deliberations last week. I had hoped and expected, under our rules, that I would have the benefit of dealing with the report of all of that work that our honourable colleagues had performed during the week of hearings that they conducted during the report stage, and then again at third reading. I am finding it most unfortunate that the government has found it necessary and desirable to bring closure to this debate so that the rest of us cannot have the opportunity to understand this very important piece of legislation.

Honourable senators, I do want to thank Senator Wallace and Senator Fraser and all senators who participated on the committee work. I have had a chance to hear Senator Wallace's report yesterday at report stage. In reading between the lines of Senator Wallace's report I see the statement: We did what we could. We were asked to do something and we did that, and here it is, for what it is worth.

Honourable senators, I want to point out to you that rule 39(2) — that is the rule we are dealing with regarding this closure motion — as was pointed out by Senator Cowan, states that a closure motion shall provide for at least a certain number of hours of debate.

With respect to second reading, there shall be a further six-hours of debate on any substantive motion and a further six-hours of debate on a motion for second reading. That is one step in each of those instances.

If one goes down to rule 39(2)(d), it reads:

... a single period of a further six-hours debate, in total, to dispose of both the report and the third reading stages of a public bill.

Senator Carignan is quite right to bring this motion, but I submit that the spirit of this section is that there would be at least six hours for each step. We have two steps here: one being the report stage, which we just started yesterday; and the second stage being third reading. This would have given us all an opportunity, if we had had at least 12 hours of debate, to deal with these matters. That is not what is before us, and that is why I cannot accept and support this request of closure.

I want to read from Senator Wallace's statements yesterday because this, I think, very succinctly outlines what we are dealing with here:

Bill C-10 brought together nine previous bills . . . covered a variety of topics — topics that related to victims of terrorism, vulnerable foreign workers, international transfer of offenders, controlled drugs, sexual offences against children, youth criminal justice, house arrest, parole and pardon.

That, honourable senators, is what we asked the committee to study last week, and that is what we are now being told we can deal with in the next six hours of debate. I suggest that is unseemly at best.

Honourable senators, Senator Wallace, again in his statement yesterday:

... there was a strong feeling that we had to analyze the key issues within the bill.

He pointed out:

As I say, there were nine different components.

They picked out all they could do, but we asked them to deal with nine different pieces of legislation. They went for the key issues and tried to analyze those during the time that they had available.

Honourable senators, I object fundamentally to omnibus legislation. Omnibus legislation does not make good law. We have seen it time and time again, and I suggest that is the case in this instance.

• (1430)

There might be a reason for the omnibus legislation, and there might be a reason that could be explained to us for bringing a closure motion the same day as we start debate on the report

stage, but there was absolutely no suggestion made as to why that should be the case. What is the emergency? There is no emergency on any of this legislation. In fact, a lot of people are very concerned about this legislation.

I will give it to you, there are a lot of people that want to see different little pieces of this legislation passed, and we have received calls from many people in that regard. However, when I spoke to them, I asked, "Had you considered some of the other pieces of this legislation?" They would say, "No, all I want is my little piece passed." That, honourable senators, is the reason why the executive would want to pass omnibus legislation, to get a lot of things through without scrutiny, and that is why we as parliamentarians should be very concerned about omnibus legislation when a lot of pieces of that legislation are not being properly studied, did not receive proper scrutiny and, therefore, can well result in unintended consequences.

Honourable senators, let me read a quote from debate that took place on March 25, 1994:

... in the interest of democracy I ask: How can members represent their constituents on these various areas when they are forced to vote in a block on such legislation and on such concerns?

Honourable senators, that was a quote by Mr. Harper when he sat as a Reform member of Parliament in the House of Commons. The block of legislation that he was referring to was 21 pages long. That is 83 pages short of Bill C-10, and he had that concern at that time.

Senator Mitchell: Wow. Do the math.

Senator Day: This quote by Mr. Harper exemplifies the problem that many senators are facing with this piece of legislation.

As I indicated, there are good and necessary aspects to this bill, as you might guess there would be when nine different bills are brought together. It is the process that we are concerned about, honourable senators, and it is the process that I am referring to here, not necessarily all of every piece of this legislation.

We know that this legislation could and will cause some concerns. We know that. We know that because the legislation has garnered such international attention already that it has even induced warnings from the United States and from Australia.

Honourable senators, some amendments have been made. The six Irwin Cotler amendments that were proposed in the House of Commons have finally found their way into this legislation. That was referred to yesterday by Senator Wallace. There were 16 other amendments that were proposed in the Senate committee hearings, 16 other amendments that were summarily dismissed, the same way as Irwin Cotler's amendments were summarily dismissed in the other place. That, honourable senators, is an indication of the kind of work that was going on and the process we are now seeing.

What concerns me is that the government is seemingly unwilling to accept any advice from anyone outside of their inner circle. Even members of their own caucus are being ignored.

We have all received the letter from our colleague the Honourable Senator Nolin urging us to give more careful consideration to this bill. He points out that the Minister of Justice, while appearing before the Legal and Constitutional Affairs Committee, said, "Our experience shows that toughening sentences does not create new criminals; it just keeps the existing ones in jail for a more appropriate period of time." We ask, honourable senators, what experience is that?

The Hon. the Speaker: I regret to advise that the honourable senator's 10 minutes is over.

Hon. Terry M. Mercer: Honourable senators, it is usually a pleasure to rise here in the Senate to speak on legislation — usually. However, today I feel so very disappointed with the lack of logic the government is showing in carrying forward with this flawed piece of legislation. I am also embarrassed for seven of our colleagues appointed by Mr. Harper who have just recently joined us in this chamber. They are now sitting here for the first time with a major piece of legislation, not having had an opportunity to hear the testimony at the committee and not having had an opportunity to hear lengthy debate and the messages from both sides. However, they will be asked — and probably will because they are members of the caucus — to vote on this legislation. It is being carried forward.

Despite the countless numbers of experts who have told us that this bill is flawed, despite the number of times we have tried to make the bill better by offering amendments to it based on evidence we heard from those experts, and despite the thousands of emails I have received from Canadians who do not agree with the bill and do not agree with the fear mongering tactics of the government, the Harper government wants to spend untold billions of dollars on a backwards crime agenda that flies in the face of fact and evidence. The government's attitude towards crime fails to understand the connection between the challenges of addiction and mental health and crime and fails to understand that youth cannot be treated the same as adults. It also clearly disadvantages the most vulnerable members of our society, including Canada's Aboriginal population.

We all know that crime rates in Canada have been falling for the past 20 years, but apparently facts and evidence do not matter to the government. As a matter of fact, the Minister of Public Safety even said that he did not care about statistics. In a quote from an appearance before the Legal Committee on February 1, he said:

I do not care whether the statistics demonstrate that crime is down 5 per cent or 3 per cent or 1 per cent or up 10 per cent; I am focused on danger, and that is what the legislation is focused on as well.

Honourable senators, if the evidence is that crime rates are indeed falling and we already have stringent laws in areas such as child safety, for example, why the need for some of the sections of this bill?

On February 8, Mr. Dan MacRury of the Canadian Bar Association stated as follows:

What we say to society, as the Supreme Court of Canada has, our Supreme Court has the toughest child pornography laws probably in the world, tougher than the United States.

He goes on to say:

I respectfully submit that we should probably start getting out there and say we do have strong laws, because we do. That is the difference. There is misinformation out there that somehow we are not standing up for children. I can tell you that we are.

If there is a need to enhance laws to protect our children, then we are all for it. However, that need must be based on evidence that it is actually required. If it is not, then why are we doing it?

Honourable senators, while I cannot get into the ramifications of this bill in its entirety, as it is so large, I would like to touch on how the bill affects our youth.

We have all heard that as a result of this bill, many young people have the potential to be thrown in jail for smoking a joint or growing a marijuana plant. I think perhaps some people in this room might have been guilty of that at some point. The government insists this is not the case and that their intent is to go after the large grow ops and drug traffickers, yet the bill talks about the minimum number of plants being six. Does this sound like a major grow op to you? Perhaps we should ask Senator White, who would know better than most of us in here.

On February 2, 2012, the Canadian Police Association told the Legal Committee:

Notwithstanding that, coming back to my earlier response, from a capacity perspective I do not remember the last time a Vancouver police drug squad member sought a warrant or executed a warrant on a grow op with six plants. We target organized crime groups, large grow ops, hundreds of plants, typically. Even if you wanted to follow the letter of the law in terms of where the line is, we would not have the capacity to do that anywhere in this country.

• (1440)

Not only is it preposterous to spend that amount of police resources going after someone who wants to grow six pot plants, it is simply not possible, yet that is the provision in this bill.

We must have confidence in our police force and in our justice system in order to ensure public safety, but this bill really does nothing to accomplish that in several areas.

With respect to mandatory minimums, for example, on February 22, former justice Mr. Justice Merlin Nunn told the Legal Committee:

I think you have to have confidence in your courts and your justices that they will appropriately sentence the person who is before them. Two people can commit the same offence and they may have vastly different situations and may deserve, perhaps, vastly different sentences.

He went on to say:

Look at the one in the papers in the last while, the kid who had the gun and had a picture of himself in his shorts in the mirror pointing the gun. The police happened to come in for some other reason and they saw him and he was charged. The minimum sentence is three years. One judge said this is a situation where a minimum sentence should not apply: It would be cruel and unusual punishment. It is not the kind of a situation that the intention of the act ever was to get at, but I would not want to be that fellow.

Honourable senators, we have all been young. We have all done foolish things from time to time when we were growing up. Does this young man deserve to go to jail for three years? While I am neither a judge nor a lawyer, it seems to me that wasting countless dollars on incarcerating this youth is foolish, to say the least.

What is needed is a balanced approach to the justice system. I read a very interesting submission to the Legal Committee from Professors Corrado and Peters from Simon Fraser University, and I quote:

Our main concern is that these proposed changes to the Youth Criminal Justice Act (YCJA) will increase the number of young offenders sentenced to longer custody sentences without considering several critical issues identified in Canadian research and research in other countries concerning several negative impacts that custody can have on incarcerating young offenders.

They went on to say:

The best response is becoming involved early and following the youth through development, offering support along the way. Without the programming, serious violent and mentally disordered young offenders will continue to cycle through the youth system and eventually find themselves in the adult system.

I entirely agree with that.

Honourable senators, the ramifications of these policies in Bill C-10 will impose an extreme financial burden on the provinces that will be saddled with more inmates and stripped of any judicial discretion. All of us in this room come from provinces that are suffering from fiscal problems. I know in my province we are worried about the cutbacks that are already starting to happen in our schools and our hospitals, and now they will have this extra burden of implementing the cost of Bill C-10.

The Parliamentary Budget Officer estimates the cost of only a few of these measures to be over \$13 billion, but the government has never produced a credible estimate and will not tell Canadians how much this will cost. After this bill is passed, it will be like getting that awful Visa bill after Christmas — it will be a surprise for everybody.

A witness from the Canadian Police Association on February 2 told the Legal Committee:

... I would like all honourable senators to be aware that police budgets across Canada are, in many circumstances, already close to the breaking point.

Again, I am sure Senator White could help us out with this.

The witness went on to say:

In order to keep our communities safe, we require both the tools and the resources necessary to avoid the kind of service cuts that would put the gains we have made at unnecessary risk.

On behalf of my members, let me be clear that this legislation represents part of the cost of doing business for law enforcement. We hope that the federal government and their provincial partners can quickly come to an agreement on how to best address the funding concerns without delay.

They are telling us, if we are going to do this, then we need a lot more money and we need to get a lot more money into the system.

Who is going to pay for the changes Bill C-10 is making? Canadians.

The Hon. the Speaker: Honourable senators, I regret to advise that the honourable senator's 10 minutes is expired.

An Hon. Senator: Time goes fast.

[Translation]

Hon. Rose-Marie Losier-Cool: Honourable senators, Bill C-10, which we are debating today, is a shoddy legislative effort. Some of its underlying principles are acceptable, but unfortunately, many others are not. Quite a few of the provisions we will be called upon to vote on at third reading stage are questionable and ideological, and fly in the face of most of the statistics and evidence that have been published for years.

[English]

However, the government is pushing this legislation through using the slim majority it has obtained from merely one quarter of the Canadian population. Far from helming our country for all Canadians, the current government is pandering to its core electoral base and, in so doing, is transforming Canada beyond recognition and turning it into a harsh, controlling state that invests much more in jails and military toys and much less into the population it claims to represent.

[Translation]

Among the things Bill C-10 deals with are terrorism, state immunity, drugs and other substances, firearms, conditional sentences, mandatory minimum sentences, the correctional system and parole. That is a lot for just one bill. The old saying, jack of all trades and master of none, might apply here.

If this bill had been divided into its sections to be studied separately, we might not be having all the problems we are having today. The current government claims that it prefers the omnibus option because each of the sections of the current bill was studied at length in the previous Parliament.

The current government provided the same explanation for its decision to impose closure on certain stages of consideration of this bill: since every section of the bill has already been studied at

length in the past, why restart the process and spend as much time on it in the current Parliament?

[English]

In so reasoning, the current government shows once again its trademark contempt for the population, the experts, the hard facts and the democratic process. The government conveniently disregards the fact that more than a third of the persons elected in the other place are new to Ottawa. Did they not deserve the right to voice their opinion on such a mammoth piece of legislation?

What about our new members in this chamber? Quite a few are new here as well. Did the new senators not deserve the chance and the time to properly study this legislation, or has the government given up on the concept of sober second thought that used to characterize the Senate of Canada?

[Translation]

Aside from the fact that all these new legislators have not had an opportunity or the time to study at length this legislative potpourri that is Bill C-10, some of the more experienced legislators could have taken a second look and refined or changed their opinion on some of the provisions in the bill. After all, only a fool does not change his mind.

I must say that I am pleasantly surprised that the current Minister of Justice recognized the merits of comments made by a Liberal predecessor, agreed that some of the provisions in this bill were poorly drafted and changed them accordingly.

• (1450)

It is unfortunate that he is the only person on the government side to have changed his mind.

This bill includes several clauses that have been the subject of much criticism not only because the current government, in its ideological fervour, has exaggerated their potential effectiveness, but also because they will be very expensive in both the short term, during this time of austerity, and the long term, as they impose a financial burden on future governments, on the provinces, and even on the next generation. Anyone who doubts me has only to read the studies produced by independent experts, who are regularly quoted in the media, not to mention the reports of our very own Parliamentary Budget Officer. As recently as the day before yesterday, he informed us that eliminating conditional sentences, just one of the many proposals in the bill, could cost taxpayers up to \$145 million.

[English]

I will not even go near the whole debate over the costs of the heaven-knows-how-many new jails that will need to be built in order to house the many new criminals Bill C-10 is bound to create with its many repressive and inefficient measures.

Two days ago, I was reading in the *Journal de Montréal* that the average yearly cost for each inmate in a federal penitentiary now stands at \$114,000, a 30 per cent increase over four years. Multiply this by the amount of new people put behind bars by the bill, honourable senators, and think of how all this money could have been used for more beneficial purposes.

[Translation]

This government claims that Bill C-10 will not increase the prison population, but once again, those claims are not based on reliable evidence. The government relies on an ideological message delivered by individuals lacking both expertise and objectivity. Why did the government not pay more attention to real experts, consult real statistics and show real willingness to listen?

The carelessness, lack of depth and lack of objectivity that have so far characterized the legislative progress of Bill C-10 are very troubling for anyone who still cares about the democratic practices and institutions that have shaped our country. The government's arbitrary and authoritarian approach to forcing Bill C-10 through the legislative process, including refusing to allow debate and rejecting amendments proposed by opposition parties, has no place in a democracy.

What is the big hurry to pass this bill?

[English]

What is the emergency? Is the government telling us to "beware the Ides of March"?

Hon. Catherine S. Callbeck: Honourable senators, I rise to join the debate on time allocation for Bill C-10.

I believe that time allocation should only be used in an urgent situation that requires action, yet here we have Bill C-10. To my mind it is not urgent at all that it be passed within a matter of six hours. It is obvious that the government is not interested in hearing what senators have to say because six hours does not give enough time for all honourable senators to speak on this important piece of legislation.

Senator Tardif: Exactly.

Senator Callbeck: However, I want to congratulate and thank Senator Wallace, Senator Fraser and the members of the committee for their important and very hard work on Bill C-10.

I would now like to take the opportunity to voice a few of my concerns, and the concerns of many Canadians, about the changes being brought forward in Bill C-10.

For nearly three months, I have received emails and letters. I have spoken to many people about this bill. In fact, I believe that I have received more correspondence from Islanders regarding this legislation than any other issue during the past decade.

These thoughtful people are very troubled; they are troubled about the impact of this legislation. They are concerned that the content of this bill will:

... radically shift Canadian justice away from prevention and rehabilitation, and towards punishment and exclusion, at a massive social and financial cost.

[Senator Losier-Cool]

They want more emphasis on helping those who require treatment for addictions or for mental health. They want judges to continue using their best judgment when handing out sentences. They are concerned about criminalizing young offenders in prison rather than rehabilitating them to become productive adults. They want more literacy and other reintegration programs in our facilities, and they are pleading with the Senate, as the place of sober second thought, to fix the problems in this legislation that will send us down the path that has already failed in so many jurisdictions.

I share the concerns that, as I say, have been expressed in these emails and letters from Canadians. Crime rates have been dropping for 20 years, but the Conservative government is intent on pushing through a backwards, ideologically-based crime agenda that will cost billions and which, as I just said, has not worked in other jurisdictions.

In the short time I have this afternoon, I want to talk about three different areas. The first is mental health. We already know the Correctional Service of Canada falls short in the treatment of people with mental illnesses who are currently housed in its facilities.

In 2010, the Office of the Correctional Investigator released an independent report and found serious funding, implementation, and accountability gaps in the delivery of mental health care services in federal corrections. When the report was released, the Correctional Investigator, Mr. Howard Sapers, highlighted that the needs of mentally ill offenders in custody exceed the current capacity of the correctional service. In the report's news release he stated:

Canadian penitentiaries are becoming the largest psychiatric facilities in the country. The Correctional Service of Canada assumes a legal duty of care to provide required mental health services, including clinical treatment and intervention. In failing to meet this legal obligation, too many mentally disordered offenders are simply being warehoused in federal penitentiaries. This is not effective or safe corrections.

The report also points to the fact that some parts of the Correctional Service of Canada's mental health strategy, though it is six years old, have not yet been implemented due to funding. The report goes on to say the offenders with mental disorders are often placed in segregation units so they can be observed for long periods of time. The Correctional Investigator condemned this practice as unsafe and inhumane.

• (1500)

Legislation such as what we have before us this afternoon, Bill C-10, will place even more offenders behind bars for longer periods of time, and it will add to the future challenges that Corrections will face on the issue of mental health.

The second area of concern is the lack of reintegration and rehabilitation programming in the system. The federal government has been announcing investments into the expansion of some of its

own correctional facilities. However, I am not aware, nor could I find, any commitment to extra funding for the rehabilitation and reintegration programs that will keep offenders from ever coming back to prison.

Senator Mercer: It is not there.

Senator Callbeck: I know. I tried to find it.

We have already lost the prison farm system, despite repeated testimony by volunteers, community organizations and former inmates who could attest to the tremendous value the program provided.

We know that without these programs, the likelihood that individuals will reoffend only increases. For example, studies show that participation in prison-based literacy programs can help prevent a return to prison. Not surprisingly, three quarters of Canadian offenders have low literacy skills. About 36 per cent of them did not complete grade 9, and the average education level of a person entering a federal facility — that is, those with a sentence of two years or more — is grade 7. Spending more on literacy training can help these offenders become more productive members of their communities when they get out of prison.

Since there is no doubt the vast majority of inmates will be returning to society, it only makes sense to help them gain psychological tools and employment skills so that they can become productive members of society.

As I say, I could not find a commitment anywhere that the federal government has made to increase the funding in this area. I was looking through the brief that was presented to the committee by Janice Sherry, the Minister of Environment, Labour and Justice and Attorney General for Prince Edward Island. She says that preparing for the impact of these provisions — meaning the provisions of Bill C-10 — will divert resources away from crime prevention and rehabilitation efforts.

Honourable senators, we should be spending more money in these areas and not less, as I think will happen in the provinces, just as the Honourable Janice Sherry has said will take place in Prince Edward Island unless the federal government comes forward with some money.

The third area I want to talk about is that Canadians are concerned about spending their hard-earned tax dollars on the cost of a justice agenda that has failed miserably in other places. The Parliamentary Budget Officer, Mr. Kevin Page, investigated the fiscal impact of the changes to eligibility for conditional sentences of imprisonment. His report was released on Tuesday. He found that the federal government would see an increase of nearly \$8 million, based on more money spent on prosecutions and parole review, but the provinces are the ones that will be harder hit, because they spend money on prosecution, court, prison and parole review. It will cost the provinces another \$137 million, based on cases they had in 2008-09.

Is my time up?

The Hon. the Speaker pro tempore: I regret to inform you that your time is up.

Hon. Dennis Dawson: Honourable senators, I will be briefly addressing the issue of Bill C-10, but before that I would like to deal with the issue of closure. You can call it time allocation, but if it quacks like a duck and walks like a duck, it is duck. It is a closure motion, and it is stopping people from debating issues.

I will talk about the reciprocal role of the judicial system and our role as legislators. I have been here for over 35 years, in one way or another. I was here as a member of Parliament with my friend David Smith 35 years ago. I lobbied some of you who are on the other side and some on this side when I was here as a lobbyist, and I have been a legislator here with the Senate for the last six years. I have seen the evolution of the legislative process, and I have seen it from different levels.

I often talk about the good old days. When I was in the other place, the House of Commons, it might surprise some of the newer senators that members would listen to testimony. They would study and, yes, they would regularly amend legislation, even under a majority government; even under the Conservative majority government and under the Liberal majority government, they would still accept amendments. The people at the Department of Justice who wrote the legislation were happy — well, maybe not all the time — but they understood that we amended bills because we were part of a process that involved looking at their proposals. At least, that is what the process was and exactly what it is supposed to be.

[Translation]

We listened to testimony and acted accordingly.

[English]

We were well informed and listened, and we amended legislation. The system has now slowly been weakened by the present government. Nowadays, committees are expected to blindly adopt legislation put forward to them by the government — in this case, a convoluted mishmash of nearly 10 previous pieces of legislation that had not made it past the house.

[Translation]

We all saw the show put on by the House of Commons committee for Bill C-10. As a Quebecer, I was outraged by the insulting manner in which Minister Fournier was treated by the committee leaders when he came to Ottawa twice to try to improve the bill. As I mentioned, in the past, we listened to stakeholders and made amendments. That is not the case in 2012.

[English]

Talking about my lobbying days, my job at that time was to represent people from the outside who wanted to participate in the process of amending legislation. Parliamentarians were getting different points of view. They had the political point of view from the minister; they had the bureaucratic point of view; and the stakeholders wanted to be heard, so the stakeholders would come before the committees, give their opinions, some for the bill and some against, but, more often than not, some with amendments because at that time the process was such that bills could be improved. That was the objective of these committees.

Lobbying was part of the process and an honourable one at that. That is the biggest crisis we are going through — a process that is weakening the whole legislative process. This government, it is known, puts pressure on witnesses not to testify.

[Translation]

The government intimidates non-governmental organizations so that they will not come and testify.

[English]

This goes against all modern legislative consultation principles. We need to hear from them. This is again part of the process.

We have heard and read about the manual the government prepared to control house committees in the other place. This has led to a major reduction in the adoption of amendments in committees in the other place.

The history of Parliament tells us that bills were always amended in the house, in the Senate and in committees in both chambers. The people who write bills, as I said before, expect this. If you remember the Federal Accountability Act, hundreds of amendments were made in the Senate on that bill. They were sent back to the house and most of them were accepted by the house because we can, we do and we should be improving legislation when it comes to this place.

I must ask you, has this government found such talent at the Justice Department that every year of this government they have fewer and fewer amendments submitted and accepted than before? Are these drafters so superior to the ones from 20 years ago that their work does not deserve to be amended? I doubt it.

There are fewer amendments in the house and nearly none in the Senate. Has the drafting process improved so much that we no longer need to exercise our role as senators, as members of this chamber, as Senator Calbeck said, that is supposed to provide sober second thought?

In the past, we could improve what the house thought was good legislation. That is where the Senate comes into place in our democracy.

We are, generally speaking, less partisan. We engage in constructive debate. We encourage the improvement of bills and, therefore, of the country, as well as improve the importance of the legislation put in the other place.

Let me briefly address the judicial side of the issue. There is a check and balance between the legislative and the judicial. I have had a working relationship with judges in Quebec and at different levels. As some of you know, I also married one, but I will try to keep that consideration out of the debate, though it does influence my thinking a little bit. I think what we are doing in weakening the legislative side is bad enough, but at the same time we are now weakening the judicial system. We legislate; they judge.

• (1510)

We should not cross that line. We should not limit their power to mandate sentences; we should increase it. They are the ones

[Senator Dawson]

that see the circumstances in which offence occurs. Often they see and hear young men and women, and too often members of our native communities, explain the circumstances of their crimes and, yes, sometimes judges offer them leniency. That is part of their job, part of their discretion, not ours. We have a good system. We have a higher rate of rehabilitation than our neighbours to the south and history has ultimately proven that their anti-crime measures were wrong.

[Translation]

Yes, mistakes have been made. Yes, I can sympathize with the victims and victims' groups, but the system works. And what is more, it works better than in other places.

[English]

Yes, we need to tweak the system every once in a while, but I do not think we should kill a good model. In short, let us both do our jobs as the Constitution requires us.

[Translation]

The Quebec Minister of Justice and Attorney General, Jean-Marc Fournier, came and met with members of the House of Commons Standing Committee on Justice and Human Rights to show just how different this bill is from the provincial model, which, I would like to say in passing, has proven its worth for the past 40 years.

Minister Fournier said that the government's solution is not a real solution. "It is like putting a band-aid on an infected wound. The band-aid does not help the wound to heal. It merely conceals it. Sometimes, when you remove the band-aid, the infection has worsened."

What is being done? The government is in the process of making draconian changes to the justice system. If the bill is passed, priorities will change. This bill will not help to combat crime in the long term.

First, the bill focuses on imprisonment rather than on rehabilitation. Second, it imposes automatic sentences that weaken our justice system and the role of judges. Third, the measures introduced by the government impose an enormous financial burden on the provinces.

This is not what Canadians want. They want a better justice system.

[English]

The often heard defence of all this abuse is — and we heard the same line and we heard it today from my friend, the deputy leader in the house, Senator Carignan — a broken record. We have a mandate from the people and what a treat. Every day we are seeing more and more of what they were ready to do to get this mandate: Spend outside the rules, use deceit, American-inspired politics. The end justifies the means, honourable senators.

[Translation]

I feel like I am talking to the Karl Rove fan club.

[English]

Just how stubborn this government can be is one for the books. Indeed, this week the government received a letter from the Global Commission on Drug Policy, urging Canada to stop pursuing the “destructive, expensive and ineffective” prohibition of pot. Among those who head this commission are former members the U.S. government, most famously George Shultz, the former Secretary of State in the Reagan administration. If Ronald Reagan’s former Secretary of State is telling us the course of action this bill is headed in is wrong, why do we keep marching in that direction? The commission’s letter further states with Bill C-10:

Canada is at the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective at meeting its objectives.

Honourable senators, we must ask ourselves: What kind of government would keep moving forward with legislation it is being told is ineffectual, dangerous and ultimately counterproductive, like the Global Commission on Drug Policy said and Mr. Fournier has been telling us? There is but one answer: an irresponsible one. The Conservatives like to talk about how opposition parties are unfit to govern, but in the years to come, when Canada has to deal with the new criminals, this bill will have been enacted, and we will be not only obliged to blame the government but as senators, on both sides of the house, if we pass this bill, we will have to blame ourselves.

Hon. Robert W. Peterson: Honourable senators, I rise today to speak on Bill C-10, the omnibus crime bill, and to encourage you to give this legislation further serious consideration. If we continue to rush Bill C-10 into law, Canada will be left with more crime, higher costs and less justice.

Bill C-10 bundles nine separate bills into one. It is over a hundred pages long and contains over 200 clauses. Yet, the Standing Senate Committee on Legal and Constitutional Affairs set aside just 11 days to deal with C-10. Clearly, it is impossible to give any of these bills the proper consideration they so rightly deserve in the tight timelines imposed by the Conservative government.

This legislation is complicated. It affects Canadians in many different ways, intended and unintended. It takes time to listen to Canadians, assess their concerns, and fix a bill. The Senate is known throughout Canada as the Chamber of “sober second thought.” Imposing time allocation on Bill C-10 certainly flushes that reputation down the drain.

Parliamentary scrutiny was not only undermined by speed but also by cost. The government has never provided a full and proper costing of this bill. Yet, the Parliamentary Budget Officer, with no help from the government, was able to cost out just a few of the measures in Bill C-10, and found these alone would cost over \$13 billion. That price tag is shocking.

When the Conservatives were in Opposition, my colleagues on the other side worked themselves into a lather over a billion dollar

expenditure. Yet, they refuse to give a second thought to whether the measures in this legislation are worth an expenditure of thirteen times as much. For that price, the government could pay for tens of thousands of police officers. Which do you think would make Canadians safer?

Bill C-10 is far from the best use of public funds and very poor public policy. Youth advocate Mary-Ellen Turpel-Lafond nailed it when she said:

What causes some recidivism in young people is not the system. It’s the lack of support.

Worse yet, Bill C-10 will not actually work. There are no studies showing that its signature tool, mandatory minimum sentences, actually reduces crime. Criminals commit crimes for complicated reasons, but none of them hesitate because the penalty is three years in jail instead of two. The reality is that most of them do not think they will get caught, and Bill C-10 does nothing to help catch criminals.

This bill also does nothing to address the connection between crime, addiction and mental health. Nor does it do anything to redress the profound inequities faced by our Aboriginal population, which is disproportionately represented in the prison system. Under Bill C-10 that prison population will swell. That is not good. All too often, prison ends up being a school of crime. Young people who make one mistake meet up with hardened criminals who teach them the tricks of the trade and coerce them into gangs in order to stay safe on the inside.

In some provinces the prison population is approaching 200 per cent capacity, and that is before Bill C-10 passes. This overcrowding exacerbates problems inside prisons.

One of the largest charities working in the field of justice and corrections in our country, the John Howard Society of Canada, has very serious concerns regarding Bill C-10. They state that Bill C-10 will hinder their efforts for just, effective and humane responses to the causes and consequences of crime and impede their efforts to make communities safer.

It is well-known that the United States has gone down this road before. Republican governors and legislators in states like Texas, South Carolina and Ohio are repealing mandatory minimum sentences, increasing opportunities for effective community supervision and funding drug treatment because they know it will improve public safety and reduce taxpayer costs. They have determined from experience that mandatory minimum penalties greatly increased the numbers in custody, the numbers in remand and clogged the courts with trials. They also stated that:

... studies clearly show that incarceration actually increases reoffending rates, particularly for youth and first time prisoners.

Fredericton Police Chief Barry McKnight understood this well. He told the committee that:

We are not going to arrest our way out of this problem. We are not going to incarcerate our way out of this problem.

Then there is the question of justice. Mandatory minimums remove all humanity from the sentencing process. For instance, if a young person with a mental health problem pushed a police officer, he would be charged with a violent assault and face a mandatory minimum sentence. A college student growing six marijuana plants inside his dorm would see his sentence skyrocket under this legislation if he gives one joint to his roommate.

• (1520)

In fact, one judge has already ruled, in one recent case, that the mandatory minimum for a first-time offender possessing a loaded gun is unconstitutional because it would constitute “cruel and unusual punishment.” That case would have sent a husband to jail for posing for photos with his cousin’s handgun.

How did we get here? For the past six years, the Conservative Party has accused opposition parties of being “soft on crime” while they are “tough on crime.” No other justification is required for the members opposite; they simply believe that if a bill “gets tough,” then it must be supported. This simplicity harms our parliamentary process.

A better way forward would be to agree that “every crime deserves a consequence,” that we must be “tough and smart on crime,” and that we must be “tough on crime and tough on the causes of crime.” From that point, we would move forward with a plan to make Canada safer instead of this self-defeating agenda of vengeance and retribution. Notable forces on the right outside the Conservative Party, from Conrad Black to the *National Post*, agree.

Honourable senators, let us stand up for Parliament, stand up for justice and stand up for taxpayers. Let us defeat Bill C-10 and get to the real difficult work of making Canada safer.

I will leave honourable senators with one final note for consideration: We spend \$8,800 a year to educate our youth, yet we are prepared to spend \$114,800 per year to put them in prison. There is something wrong with this picture; just think about it.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to the government’s closure motion on Bill C-10.

Bill C-10, as all honourable senators are aware, is an omnibus crime bill consisting of nine separate pieces of legislation that had been dealt with separately during the Third Session of the Fortieth Parliament. There are nine bills in this omnibus bill.

The Standing Senate Committee on Legal and Constitutional Affairs sat for over 50 hours and heard from 111 witnesses. We heard from victims, former judges, many police officers and people who worked for offenders. Even after hearing from all these witnesses, we were not able to thoroughly examine all aspects of Bill C-10.

I personally have received over 10,000 emails, hundreds of phone calls and handfuls of letters, all of which express concern about this bill. This morning, an electronic petition was sent to my office by an organization called Leadnow. This petition included over 50,000 signatures of people who are not in favour of

Bill C-10. Unfortunately, I was mistakenly under the impression that we would be further debating this bill thoroughly in this chamber and touching upon the many problems present in this omnibus crime bill. There are many issues that I would have liked to debate in our Senate Chamber — issues that are important, complex and deeply embedded in this bill.

The work done by Justice Nunn is often cited when we speak of Bill C-10. In fact, it is often stated that it was the report of Justice Nunn that brought this bill before us. Knowing this, I was troubled to hear Justice Nunn, when he appeared before our committee, voice concern over mandatory minimum sentencing and state that he was not in favour of it.

Honourable senators, if a person whose report is directly reflected in this bill and who is often given credit by the government for Bill C-10 has doubts, then do we not also have reason to be concerned? To me, this is a sign that this bill needs to be examined more carefully in this chamber.

Since my time is limited today, I will touch upon a few of the many pressing concerns that I have and will also discuss two amendments that I brought forward in committee and would have liked to introduce in this chamber. The first was a safety valve amendment to mandatory sentencing, which states:

A court sentencing a person who is convicted of an offence under this part, for which a minimum punishment is prescribed by the law, is not required to impose the minimum punishment if the court is of the opinion that:

(a) there are exceptional circumstances relating to the offence or the offender; and

(b) imposing the minimum punishment, having regard to all the circumstances, would be excessive or unreasonable.

Honourable senators, this amendment reflects what our committee heard many times from many people, such as the Canadian Bar Association and many others, including Justice Nunn. This was known as the “safety valve amendment.” I drew the committee’s attention to the importance of leaving some kind of discretion to the judge in exceptional circumstances when sentencing, even when mandatory minimums are imposed by Bill C-10. The effect of this amendment is to not tie the hands of the judge with mandatory minimum sentence provisions advanced by Bill C-10 and to allow the judge to consider factors that would make such a sentence excessive or unreasonable and to impose an alternative or lesser sentence.

The Canadian Bar Association and the Aboriginal Legal Services of Toronto wanted a general safety valve that would apply to all mandatory minimum sentences currently found in the Criminal Code. They pointed out many other countries that have safety valves, such as the United Kingdom, Australia and the United States. The effect of this amendment is that we all know we need to give the judge some flexibility in exceptional circumstances.

I also introduced in committee an amendment on mental health considerations for drug offences. It states:

A court sentencing a person who is convicted of an offence under this Part may, if satisfied that the person requires mental health care, delay sentencing to enable the offender to participate in a mental health program approved by the Attorney General or to receive mental health treatment.

Additionally, it states:

If the offender successfully completes a program under subsection (6) or if the mental health treatment is ongoing, the court is not required to impose the minimum punishment for the offence for which the person was convicted.

The committee heard from the Commissioner of the Correctional Service of Canada, Mr. Don Head, that 13 per cent of men and 29 per cent of women have mental disorders in our prison system; and this only applies to the drug section.

Several witnesses drew attention to the importance of adopting this amendment. Mr. Howard Sapers, the Correctional Investigator of Canada, said that the profile of inmates was changing. I want honourable senators to reflect on this statement when sleeping tonight because it haunts me: Mr. Sapers said, "Prisons are not hospitals, but some offenders are patients." I repeat: "Prisons are not hospitals, but some offenders are patients."

Dr. John Bradford said that in jail there is a controlled situation, while in a mental institution there is one-on-one care to help a person heal. Let them get that care first and then they can come back in front of the judge, which advocates treating offenders rather than putting them in jail.

Honourable senators, many things have been mentioned in this chamber, but two acts have not been touched, and they are very close to my heart. One is the Justice for Victims of Terrorism Act, to deter acts of terrorism against Canada and Canadians. The act states that both Canadians and people all over the world are entitled to live their lives in peace, freedom and security. Bill C-10 was introduced in the Senate in the last session in the form of Bill S-10. Senator Segal and Senator Tkachuk will attest to the fact that I was very concerned and agitated about this because once a victim has started an action against a foreign state, if for some reason the relationship between our country and the said foreign state improves, the victim's action would then be defeated as the foreign state would be given immunity.

I am very pleased to see my concerns have been addressed in this new bill, which states:

If proceedings for support of terrorism are commenced against a foreign state that is set out on the list, the subsequent removal of the foreign state from the list does not have the effect of restoring the state's immunity from the jurisdiction of a court in respect of those proceedings or any related appeal or enforcement proceedings.

• (1530)

Honourable senators, this shows that we can change bills and that we can make differences for Canadians. However, there are many more improvements that still need to be made to this bill. Our committee heard from a number of witnesses last week who raised some very important concerns. We need to give these concerns proper consideration.

For example, our committee was advised by David Quayat and Hilary Young very clearly that, under our federalism the constitutional division of powers creating causes of actions is generally a provincial power. My concern is that we are raising the expectations of victims of terrorist acts and, when they finally sue the person who has caused them harm, they may find that they will not be as successful and they may be once again let down.

Another act that is of particular concern to me is the Immigration and Refugee Protection Act. This bill will allow immigration officers to refuse work permits for foreign nationals deemed to be at risk of exploitation based upon ministerial instructions — a very laudable thing. This amendment is meant to prevent trafficking, abuse and exploitation of vulnerable immigrants, especially women. However, the components of this bill are also very troubling.

For example, under this bill, an employer applies to Human Resources and Skills Development Canada for a labour market opinion setting out that there is no one in Canada that can do the job. The employer is then granted permission to bring a foreign employee in on a work permit. The challenge I have with this provision, one that I would like to have debated, is why, then, is the employee denied the work permit?

In my opinion, if we are trying to protect vulnerable people, especially women, the fairer situation would be to stop the root of the problem and stop the employers from obtaining labour market opinions to hire the employees in the first place, rather than once the work permit has been given.

The Hon. the Speaker: Excuse me, the honourable senator's 10 minutes has expired.

Hon. Grant Mitchell: Honourable senators, I would like to place a slightly different emphasis in my remarks on the issues that are at stake in this bill. My colleagues have discussed the bill in many different substantive ways. They have addressed the issues of this bill's relationship, or lack thereof, to solving the issues of crime, crime prevention, rehabilitation and so on. There is another side to this.

To be sure, this bill is about crime. It is less about crime prevention than the government would purport it to be. In fact, it is very much about a weak and failing crime agenda, one whose failures will be proven in the not-too-distant future — in fact, are already beginning to be proven — and one for which failure will incur huge human costs. Those costs will be on the vulnerable and unsuspecting victims, as well on those whom the government sees purely as offenders in varying colour and varying degree of evil — offenders who themselves will in many ways become victims of this bill.

This bill is very much about more than simply crime and the crime agenda. It is very much about retribution and punishment versus forgiveness as ways and means of creating the healing process in those experiences that people have with respect to crime. In that context, in particular, it is about who we are and what we are as Canadians. Bill C-10 is about what we value; how we promote and reflect those values in our society; how we relate to one another; how we relate to the more vulnerable; and how we relate to people for whom, if we could only offer a little bit more understanding, we would actually solve their problems and create a stronger, more healthy, more giving and more compassionate society.

This bill is about reducing complex problems to very simplistic characterizations that simply will not be fixed by the even simpler “remedies” — and I use that word lightly — this bill and this government would apply to those kinds of complex problems. It is about the difference between understanding and accepting science, research and thoughtfulness versus being driven by an ideology that may percuss this government and its members at some emotional level, but absolutely will not solve the problems which they have identified. In many respects, of course, we agree on what the problems are, however, we certainly have a deep difference in our estimation of what the symptoms are.

Now, because of closure, this bill, in addition to being about democracy to the extent that it addresses directly issues of fairness and justice, is very much about democracy because closure is an assault on the democratic institutions that we work within. Closure is an assault on the democratic processes that give us and sustain our rights and freedoms that make Canada one of the most remarkable and envied, just and fair — at least to this point — societies on the very face of the earth. Therefore, this is not simply about crime and a crime agenda; this is now about democracy, the democratic process and the assault that this closure represents.

This closure is not simply an isolated incident. It is, in fact, part of a pattern of closure.

Senator Mercer: They are addicted to it.

Senator Mitchell: Talk about the need to deal with addiction.

This government has invoked closure 24 times since it became a majority government. I am not sure, but I will bet that is more than the previous government invoked in its entire 13 years in government.

I thought it was a record, but, when I was in the legislature in Alberta, one summer when we were sitting that government invoked closure 18 times. Probably per month, per day or per unit of time that was more, but this is certainly a record in volume.

It is not just that this closure today is part of a pattern of closure. It is part of an assault in many different respects on our democratic institutions, on our democratic processes and on the intensity with which people in this country are encouraged to or discouraged from day-to-day debate, action and involvement in democratic processes and democratic debate in this country and in our society.

[Senator Mitchell]

We saw almost breathtaking examples that illustrate what I am saying on this issue. We saw, for the first time in the history of this country, the government ruled in contempt of Parliament. They can say that it is because of the configuration of Parliament at that time, but there have been many periods of minority government. Never before in the history of this country has a government been ruled in contempt of Parliament. The foundations for that ruling speak for themselves.

The fact of the matter is that this government was making decisions — in fact on this very bill — and asking for decisions to be made without ever providing the kinds of information that any properly functioning, democratic, parliamentary institution would be absolutely right to expect that a government should provide them.

Then, of course, there have been multiple examples of muzzling of free speech among our scientists. In the Department of the Environment, our scientists are noted internationally for their credible, world-class leading scientific research and peer-reviewed publishing. Those who are left, if not fired, have been systematically inhibited from speaking out about their work.

In relation to access to information, the program has been bogged down in a way that is unprecedented. People have never seen anything like this before. When information is finally revealed, or when the documents are finally presented, they are often heavily redacted and almost unusable in the context of access to information.

This is perhaps one of the most serious and revealing features of the character of this government. When confronted with groups that disagree with whatever it is this government wants to do, if the government was funding them, they stop funding them. We saw that with KAIROS. Not only did the government stop funding that organization the way they had, but they actually took it over in a surreptitious matter, to stifle debate, to stifle those groups that have opinions or positions that this government would disagree with. They have done the same with many women's groups that were funded and that provide a remarkably important process of representing and advocating for women's issues and on behalf of women in our society and in our government public policy process. They have cut funding to stifle that.

• (1540)

There has been a direct assault in many ways — beyond the question of closure — on how these institutions have been treated and how they work. For example, several years ago, while still a minority government, this government prepared a huge manual to instruct its members on how to inhibit the process and the work of parliamentary committees.

Senator Mercer: The dirty tricks handbook.

Senator Mitchell: There it is, one of the dirty tricks handbooks.

In more recent times, with their majority, they are now conspiring to put much of the work that has been done by parliamentary committees, as a matter of course and tradition and, of course, in honour of democratic openness and transparency, in camera — behind closed doors — so that Canadians cannot see what it is that they want to do.

We have seen more and more — and this is very disconcerting — intimidation, in various ways like cutting off of funding, as I just mentioned, of groups that simply want to participate, legally and responsibly, in the public policy process and debate in this country. There is a concerted strategy to intimidate. Most recently, there has been the effort to demonize environmental groups and to somehow stifle whatever they are saying before processes that were set up by government so that people can openly debate issues on both sides, for example, development and the environment. These groups are now being intimidated by the kind of initiative that has been undertaken by the government generally and furthered by a recent inquiry by a member of this Senate.

The government has specifically launched intimidating attacks on environmental groups, and I will speak more broadly and at greater length about that when I address that particular inquiry.

Then there is the assault on fairness in the electoral system. If all of the various assaults that I have just listed were bad, this perhaps elevates the nastiness of what this government is doing to democracy even further. Of course, I am referring to their guilty plea on the in and out strategy that was clearly cheating. Whether or not it ultimately meant that they had bought or stole an election, it certainly was intimidation and erosion of the democratic process.

Even more disconcerting, we now see the question of voter suppression. It has yet to be determined whether the government actually stole the election based on voter suppression, but I am saying that there were forces afoot that certainly underlined that the fairness of this electoral process has been absolutely eroded and undermined by this government. When they saw that it was happening during the election, they did nothing about it.

One of the most —

The Hon. the Speaker: I regret to advise that the honourable senator's time has expired.

[Translation]

Hon. Céline Hervieux-Payette: Honourable senators, I am usually very pleased to rise and speak in this place, but today, it is with great sadness and more importantly it is with great concern that I speak to this motion to limit the time for debate.

I would like to mention a few recent issues that clearly demonstrate the kind of federalism this government likes to practice. With regard to health care agreements, there was absolutely no consultation. The provinces were simply told, "Here is what you are getting; take it or leave it." In other words, "It's our way or no way".

Coming from Quebec, this is not necessarily how I imagined the spirit of Confederation. A federal government implies some degree of power-sharing, and when this power is shared by two levels of government, they first have to agree to discuss how to address operational issues.

I remember one file that was the subject of considerable consultation: the Kelowna Accord. All that work was tossed out the window the day after the Conservative government came to power. The provinces, the federal government and all stakeholders had come to an agreement on how to address the problems facing Aboriginal populations, involving everyone and ensuring a step in the right direction. Still today, these issues are definitely not receiving the attention they deserve.

The same is true regarding justice. As we all know, the administration of justice — including the prosecutors and the courts — comes under provincial jurisdiction. Whenever changes to the Criminal Code — which is in federal jurisdiction — were being considered, there always was consultation. I used to be an MP in the House of Commons and now I am a senator, and I believe that it is the federal government's duty to ensure that, when passing legislation whose application concerns both levels of government, both sides come together to discuss it.

One question I have that will likely remain unanswered has to do with the cost. Personally, I have not yet seen any studies regarding the cost of this bill. Where is the cost-benefit analysis that proves that, as of tomorrow morning, our streets will be safer? On the contrary, and we will have the opportunity to discuss this later, in the testimony we heard, no expert would agree that this bill guarantees any kind of improvement. Where are the federal-provincial agreements that would put a limit on additional costs?

I would simply like to remind you, honourable senators, of the position taken by my province and the Quebec justice minister, Jean-Marc Fournier. Mr. Fournier has concerns, as do I, about the lack of scientific evidence to support the Harper government's approach to criminal justice. Mr. Fournier announced that Quebec does not intend to pay the multi-million dollar tab resulting from passage of the omnibus bill.

My proposal is quite simple: why not expect the Prime Minister and provincial premiers or justice ministers to sit down together to study the situation and come up with a solution in the best interest of all Canadians?

I am truly convinced that the government does not want to listen to the scientific evidence, and that it does not want to hear from experts. I know that, in Canada at least, Louise Arbour is one of the most renowned and admired people in the administration of justice, and she is a member of certain groups that have taken the government to task for this bill.

With regard to one of Mr. Fournier's concerns, this bill will result in an upward spiral of imprisonment. There will definitely be no savings and no rehabilitation. Nor will there be any money — I have not seen any — to compensate victims.

I ask the question once again: where is the cost-benefit analysis?

We have only received the report prepared by the Parliamentary Budget Officer, which indicates that costs will escalate by hundreds of millions of dollars and that we will have to build prisons.

I wonder if we are moving towards the American model. Will future jobs be created by building private prisons to be operated by private corporations that will hire prison guards? I do not think that this will bring us to the international forefront in terms of productivity.

One of the things that Mr. Fournier has criticized and deplores, as I do, is the undercurrent of revenge in Bill C-10.

• (1550)

According to him, that does not ensure safety for the long term — and I agree. The minister said:

Prison sentences do not reduce crime or recidivism. A strategy purely focused on locking up offenders is nothing more than a temporary, superficial solution.

The minister said it was a “soft on crime” solution.

Mr. Fournier also reminded us a number of times that we can lengthen sentences for young offenders, but those young people will have to leave prison one day and return to society.

I would like to remind honourable senators that I took part in developing two bills. The first was on youth protection and the second was on a complete overhaul of the Young Offenders Act under the Trudeau government. The philosophy behind them was the same, because when children need to be protected it is generally because they are at risk. Quite often they are at risk of committing reprehensible acts because they are poor, mistreated, living in the streets and have no family. The Conservatives’ solution to keeping them off the streets is to put them in prison. This solution and this philosophy are not only outdated, but they are not to Canada’s credit.

Mr. Fournier is challenging the federal government to provide facts and evidence to justify the fundamental changes it wants to make to the system. In other words, if tomorrow morning the ten provincial ministers and the federal government sat down to see how to improve the safety of our communities in Canada, perhaps the government would find that we need a bit more in terms of social services; perhaps it would find that we need to help the First Nations community a bit more; perhaps it would also find that it is important to help single mothers take care of their children. In that sense, Quebec has found a solution and that is to create day cares to allow young mothers, usually single ones, to have someone to take care of their children while they get job-related training in order to lift themselves out of poverty one day.

There are solutions, but the one in Bill C-10 is not the right one.

It seems that, nowadays, it is not in the government’s interest to put facts and scientific evidence on the table, be it from Statistics Canada or other federal institutions. I find that troubling. I think that the best way to go about solving a problem is to understand the nature of the problem itself and all possible solutions, based on what other Western countries are doing. This government has chosen an approach more akin to that used in non-OECD countries, an approach that is diametrically opposed to a philosophy of rehabilitation.

[Senator Hervieux-Payette]

The government’s claim that we do not support improving the justice system and protecting ordinary Canadians is totally false. Nevertheless, Bill C-10 is the wrong kind of solution. That is why I think that we are missing out on an excellent opportunity to meet today to discuss Bill C-10.

Minister Fournier was not the only one to say so. Ontario’s premier said that he would not foot the bill either. Together, Quebec and Ontario represent 50 per cent of the Canadian population. So who will foot the bill? Some Canadian will have to. Either Canadians will receive two bills, one from the federal government and the other from the provincial government, or they will receive a bill from the federal government only. Regardless, Mr. McGuinty is already dealing with a difficult situation in Ontario, and he does not need more expenses in his budget. Building new jails is not on Ontario’s agenda.

I therefore urge honourable senators to ask the minister to postpone this bill indefinitely.

[English]

Hon. Larry W. Campbell: Honourable senators, I rise today to speak on the government motion to limit debate on Bill C-10. The role of the Senate is to provide sober second thought, but this government is limiting our ability to fully consider important pieces of legislation.

Due to the time constraints this government has imposed on the study and debate of this bill, we have not been able to look at all the required information needed to pass this legislation in good conscience. This bill includes nine separate pieces of legislation and covers a huge variety of subject areas. From terrorism to drug crime to pardons to immigration issues, there is a dog from every kennel in this bill.

The Standing Senate Committee on Legal and Constitutional Affairs held 11 days of hearings to cover every part of this bill. How can this government possibly believe that this is enough time to properly hear crucial evidence and testimony regarding this bill?

The part of this legislation that deals with increasing and creating a new mandatory minimum for sex offenders, as well as creating two brand new offences, was dealt with in a day. Proposed amendments to the Immigration and Refugee Protection Act were given hardly any consideration at all. The committee heard from two panels of witnesses and from the minister and officials — less than one day of study.

The International Transfer of Offenders Act amendments were addressed by only two panels of witnesses, for a total of about two hours. The changes to the Young Offenders Act — 27 clauses — were also dealt with in a day. Proposed amendments to the Corrections and Conditional Release Act, which constitute over 50 clauses of this bill, as well as changes to the pardon and parole system and the curtailing of the availability of conditional sentencing were not given thorough study. They were looked at for approximately a day and a half.

Senator Tardif: Shame!

Senator Campbell: These are complex amendments with far-reaching implications. They deserve proper consideration, which they were simply not given.

Many organizations and groups asked to be heard before this committee but were unable to be heard due to the ridiculous time constraints. Furthermore, by limiting debate on this bill, the government is effectively slighting the witnesses who did travel here to speak to the committee and explain their views. We do not have adequate time to ensure that their voices are properly heard.

Time allocation was imposed on every level of house debate. It is an abuse of power that has, unfortunately, become a commonly used tool for this government. The message they are sending is clear, as it has been from the introduction of this legislation: They do not care about evidence, they do not care about witnesses' testimony, and they do not care about sober second thought.

Hon. Art Eggleton: Honourable senators, I want to stress three points. I will pick up on what Senator Campbell has just said and what Senator Fraser and others said earlier.

First, I find it astonishing that we did not finish the work. Is this not a violation of our duty? Senator Fraser has said there are components of the bill that did not get proper attention at the committee. Now, the committee worked long. It went all week and worked very hard, but this is a big bill. The Canadian Bar Association says it is too big. It says there are too many components in it that should not be in one bill by itself, and it points out that a lot of attention was not paid to a lot of components. Well, is that a violation of our duty? I think it suggests that it is.

Senator Tardif: Yes.

Senator Eggleton: Why are we talking about time allocation when we have not finished the job? We should have this back at committee so we can do the proper job the people expect us to do to provide sober second thought. You cannot provide sober second thought if you are not doing the work.

The second point I want to make is that all sorts of people have weighed in on this — people of great prominence, accomplishment and expertise: a former Chief Justice of Ontario, another who was a former member of the Supreme Court of Canada, the Canadian Bar Association. Many different organizations have all weighed in on this. However, did the government members of the committee accept any of their suggestions? No; no, they did not.

Did this large body of people who have a lot of expertise in this area not have anything to say that was useful in your minds, that you could not support any amendments whatsoever? Or is this just a case of, "Well, the last election we promised this, and therefore we will deliver it?"

• (1600)

That is an affront to Parliament, to just leave it at that, because you have an obligation to go through the proper process. What else would we have the committee for? Why else would we be standing here debating these items if you have already made up your minds? It is a question of, "Do not confuse me with the facts,

because I have already made up my mind." That, again, is a dereliction of duty. Surely we should not be stonewalling all these people. You do not have to agree with everything they said, but surely someone, at some time, said something useful. However, you did not allow a single amendment to this. "No, we promised this in the election; we are going to proceed with it."

Why did you send it to committee? Why did you not just insist on having it all voted three times in one day and just get it over with? You are insulting people by saying, "Go ahead; say whatever you want. Yes, have the committee meetings for a week, but at the end of the day we will do exactly what we have always intended to do, and we will not listen to you at all."

One person who would feel dishonoured by that use of procedure and Parliament is former Prime Minister Diefenbaker. Prime Minister Diefenbaker was a champion of this Parliament. He was a person who respected the institution of this Parliament and believed that it needed to carry out its duty in a proper, functioning way. He said: "Parliament is more than procedure — it is the custodian of the nation's freedom."

How do you think Mr. Diefenbaker would feel today about the number of times that Mr. Harper has invoked closure and time allocation in this Parliament since the last election in May, in record numbers? That, again, is an insult to the memory and beliefs of Mr. Diefenbaker and to this institution. Let us do our job; let us defeat time allocation and go back and give this bill proper examination.

Hon. David P. Smith: Honourable senators, I rise today to add my voice to this debate on time allocation on Bill C-10. Bill C-10 is an amalgam of nine bills. It is a big one, over 200 clauses. There is a lot to absorb. I just do not think that time allocation is appropriate here. This bill is flawed. There are flaws in there. I honestly think that we should be having debate rather than closure.

The Minister of Justice has said it is balanced and targeted with specific legislation to keep existing criminals in jails. He says the approach respects the rights of the accused without "allowing these rights to take precedence, such as community safety."

I want to say that I actually have great respect for the Minister of Justice. However, I do not agree with him on this. I am a lawyer by profession. Forty years ago, when I was called to the bar, I did quite a few criminal cases. I cannot resist pointing out that a year later, my wife became a Crown prosecutor. Those were interesting days. We never appeared against each other.

This is an area of law that I am quite familiar with. I know what the legal profession and all the organizations are saying, and they are overwhelmingly opposed to this legislation.

First, I would say that Liberals are committed to pursuing a crime and justice approach that is evidence-based, cost-effective and focused on crime prevention. If you look at statistics on how Canadians feel about it, between 2009 and 2010, police-reported crime dropped 4 per cent and violent crime dropped 3 per cent. Statistics Canada says that 93 per cent of those surveyed in 2009

said they were satisfied with their personal safety. This is the same figure that they cited five years earlier, before the Conservatives and their “lock up every offender” philosophy came into effect, so there is no difference.

I do not think this bill has broad support from Canadians. I have received hundreds of emails, virtually none in support.

One key element of the bill that has received a fair bit of attention is the mandatory minimum sentences for drug offences. It does not distinguish between, say, possessing 6 plants or 600 plants. This part of the bill just does not make good sense, as has been pointed out by Senator Nolin, for whom I have great respect. The Global Commission on Drug Policy weighed in on the debate as late as yesterday, when it sent out a missive against the bill. This well-respected international organization, which includes former Supreme Court of Canada judge Louise Arbour, sent a scathing letter to the government stating:

... with the proposed implementation of mandatory prison sentences for minor cannabis-related offences under Bill C-10, Canada is at the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective at meeting its objectives.

Honourable senators, as the commission states, by implementing this drug policy, the government is sending the wrong message to the world. The letter goes on to say:

Canada has a proud international tradition of innovative and realistic policies; tougher drug law enforcement tactics such as mandatory minimum sentencing for minor drug offences will put a huge strain on Canadian taxpayers, will not have the intended effect of creating safer communities, and will instead further entrench the marijuana industry in the hands of organized crime groups.

The commission is not alone. The U.S. organization Law Enforcement Against Prohibition sent a letter to the Senate, signed by 28 current and former judges, police officers and narcotics investigators, which said:

Through our years of service enforcing anti-marijuana laws, we have seen the devastating unintended consequences of these laws. Among the greatest concerns is the growth in organized crime and gang violence.

Is that not what you are trying to fight with this bill? That is kind of ironic.

Then there is the cost. Ask Kevin Page, the Parliamentary Budget Officer. He was asked to give an independent analysis to the Senate and House of Commons on the state of the nation's finances. He responded to a request from a member of the other house to look at the cost issue of one element of the bill, the conditional sentences of imprisonment. His report on the fiscal impact of the changes to eligibility for conditional sentences of imprisonment in Canada had Bill C-10 been in force in 2008-09 underlined what we had suspected: The government's plan would result in increased costs.

What I found particularly telling was that he concluded that approximately 4,500 offenders would no longer be eligible for CSI — that is, conditional sentences of imprisonment — and, as such, would face the threat of a prison sentence; and the average cost per offender will rise significantly, from about \$2,600, because of these minor ones, to \$41,000. That is a 16-fold increase. From whom? The Parliamentary Budget Officer.

The government claimed this bill would not result in increased costs. The Parliamentary Budget Officer said it would have resulted in close to \$8 billion in costs federally, while the provinces would bear the brunt for higher prosecution, court, prison, and parole review costs.

Others may get into this, but in Ontario alone they are saying it will cost \$1 billion.

Another area that concerns me is the Aboriginal community. In 2006, they represented 3.1 per cent of the adult population, but they represented 18 per cent in provincial and territorial prisons and 19 per cent in federal institutions. With these minimum sentences, that number will go up. That is disgraceful; I think it really is.

I was also curious to read former Tory MP David Daubney's comments on the bill. He recently retired from the Department of Justice, and as an MP, he chaired the Standing Committee on Justice, which produced a review of sentencing back in its day. In an interview with the *Globe and Mail*, he said the government's “policy is based on fear — fear of criminals and fear of people who are different. . . . I do not think these harsh views are deeply held.” He was the coordinator of the Justice Department's sentencing reform team until retiring in October.

To give credit where it is due, I was pleased to see that the government listened to the brilliant mind of our critic in the other house, himself a former Minister of Justice, with those amendments, and I do respect that.

• (1610)

I also want to say objectively that I was part of the Special Senate Subcommittee on Anti-terrorism, and again I was pleased to see that the government also considered our report.

However, overall, in this time when the government is preaching austerity and has already warned that belt-tightening is coming in the next budget, placing jobs and pensions at stake, it is embarking on a reckless spending spree to deal with an issue that is based on ideology and not reality. It is part of this jails and jets idea. I will not go into these most expensive jets in the world, but the last I heard, the Cold War was over.

The government is building its crime-fighting fantasy on a failed American experiment with this legislation, and it is being done on the backs of Canadians who do not even feel under threat or siege. I know that honourable senators will be addressing other shortcomings of this legislation, but I did want to take a few minutes to indicate I do not think this is something on which we should have time allocation.

Hon. Elizabeth Hubley: Honourable senators, I am deeply troubled by many aspects of Bill C-10, the Safe Streets and Communities Bill. From the testimony given during the hearings on this bill in the Standing Senate Committee on Legal and Constitutional Affairs, it is clear to me that there are still serious issues with this legislation that have yet to be resolved.

In particular, I am concerned about the effect of mandatory minimum sentencing provisions on our already overcrowded prisons, the lack of access to programs and services for inmates and the replacement of the principle that corrections services use the least restrictive measures with what is necessary and proportionate. Overcrowded prisons are a threat to the safety of inmates and the corrections staff and are an impediment to the rehabilitation of offenders.

Howard Sapers, the Correctional Investigator, had this to say about the overcrowded prisons when he appeared before the Legal and Constitutional Affairs Committee:

As prisons become more crowded, building our way towards a solution while assisting inmates to lead a law-abiding life upon release is an increasingly challenging and expensive endeavour.

Honourable senators, too many of our Canadian inmates are housed in accommodations that contravene United Nations standards, and some of those in solitary confinement are also double-bunked. This is simply unacceptable. Overcrowding is only going to get worse if we pass this bill and its attendant mandatory minimum sentencing provisions.

In addition to the problem of overcrowding, Mr. Sapers also told the committee about the challenges our corrections system faces due to the changing offender profile. As the committee heard, one in five federal inmates are aged 50 or older; 36 per cent are identified at admission as requiring some form of psychiatric and psychological service or follow-up intervention; 63 per cent of offenders report having used either alcohol or drugs on the day of their current offence; 20 per cent are of Aboriginal descent; and 9 per cent of inmates are Black Canadians.

Honourable senators, offenders with mental health issues or addiction problems and those who lack education and job skills need access to programming while in prison. Frustratingly, the Correctional Investigator found that in prison after prison the waiting list for access to these programs contained more inmates than were actually enrolled.

In order to achieve safe streets and communities, there needs to be a greater emphasis placed on treatment and rehabilitation. Most offenders leave prison one day, and when they do Canadians deserve to know that they have the skills necessary to lead a productive and crime-free life.

I am afraid that with this bill too much of an emphasis is placed on punishment and retribution and not enough on rehabilitation and prevention. Kim Pate, the executive director of the Canadian Association of Elizabeth Fry Societies, explained to the Standing Senate Committee on Legal and Constitutional Affairs that the majority of women, men and young people who are in prison have also first been victimized.

Honourable senators, I believe that the best approach to dealing with crime is prevention. We must intervene early to divert vulnerable children away from lives of crime. This is especially important in communities where poverty, despair and criminality cycle through families from one generation to the next.

I am also concerned about the provision in this bill that would replace the principle that the correctional service use the least restrictive measures consistent with the protection of the public, staff members and offenders with the principle that the measures are limited to what is necessary and proportionate. This change would give prison guards even more power to use force than they currently possess.

Honourable senators, I am afraid that this change will hit mentally ill prisoners particularly hard. When I think of the impact that this sort of change will have on offenders, I cannot help but think of vulnerable individuals like Ashley Smith. I realize that dealing with mentally ill prisoners cannot be easy for prison staff. That said, it is imperative that we continue to hold them to the highest possible standards. It is important to remember that when we incarcerate an individual we temporarily deprive him of his liberty, but we do not take away his rights under the Canadian Charter of Rights and Freedoms.

Honourable senators, the Correctional Investigator told the Standing Senate Committee on Legal and Constitutional Affairs that he, too, is concerned by the messages and implications that are being delivered by this proposed change, and, moreover, that this change appears contrary to maintaining a fair, safe and accountable correctional system. Clearly there are lingering concerns about this aspect of Bill C-10 and its consequences for Canadians as inmates.

I am not satisfied that these concerns have been thoroughly considered. Due to these overwhelming concerns about the impact mandatory minimum sentences will have on our already full prisons and on mentally ill inmates who occupy them, I cannot support this bill. I think we are taking the wrong approach to dealing with crime, and consequently we will achieve neither safer streets nor safer communities.

[Translation]

Hon. Fernand Robichaud: Honourable senators, I agree with my colleague, Senator Calbeck, that, first of all, we should only invoke time allocation in urgent situations, when a bill needs to be passed immediately, and that we could have reached an agreement on the number of hours or days to allocate to this bill.

During his presentation on the committee's report, Senator Wallace talked about what a great job the committee did. He also mentioned that the committee members did not always agree on —

The Hon. the Speaker: I apologize, honourable senators, but I must interrupt Senator Robichaud.

[English]

Our two and a half hours have now expired; therefore, I am obliged to put the question to the house.

It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Eaton, that, pursuant to rule 39, a single period of a further six hours of debate, in total, be allocated to dispose of both the report and third reading stages of Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts.

Those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the yeas have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

The two whips are standing.

Senator Munson: One hour.

Senator Marshall: One hour.

The Hon. the Speaker: As the rules say, and the whips confirm, the vote will take place at 5:20 and the bells will ring during this period.

Do I have permission to leave the chair?

Hon. Senators: Agreed.

• (1720)

Motion agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Angus
Ataullahjan
Boisvenu
Braley
Brazeau
Brown
Buth
Carignan
Cochrane
Comeau
Dagenais
Demers
Di Nino
Doyle
Duffy
Eaton
Finley
Fortin-Duplessis
Frum

Maltais
Manning
Marshall
Martin
Meredith
Mockler
Neufeld
Ogilvie
Oliver
Patterson
Plett
Poirier
Raine
Runciman
Seidman
Seth
Smith (*Saurel*)
Stewart Olsen
Stratton

Gerstein
Greene
Housakos
Lang
LeBreton
MacDonald

Tkachuk
Unger
Verner
Wallace
Wallin
White—50

NAYS THE HONOURABLE SENATORS

Baker
Callbeck
Campbell
Chaput
Cools
Cordy
Cowan
Dawson
Day
Downe
Dyck
Eggleton
Fraser
Furey
Harb
Hervieux-Payette
Hubley
Jaffer
Joyal

Losier-Cool
Lovelace Nicholas
Mahovlich
Massicotte
McCoy
Mercer
Merchant
Mitchell
Munson
Nolin
Peterson
Poulin
Poy
Ringuette
Robichaud
Smith (*Cobourg*)
Tardif
Zimmer—37

ABSTENTIONS THE HONOURABLE SENATORS

Nil

NINTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator White, for the adoption of the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts, with amendments and observations), presented in the Senate on February 28, 2012.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, in rising today to speak on the bill itself, I first want to thank Senator Wallace for his work in chairing our Standing Senate Committee on Legal and Constitutional Affairs during the study of this complex bill. I participated in most of the hearings and all of them during last week's marathon. The

[The Hon. the Speaker]

committee functioned well within the strictures imposed upon it, due in no small part to the leadership of Senator Wallace as chair and Senator Fraser as deputy chair. We all owe them our appreciation.

However, honourable senators, as we heard earlier this afternoon, there were severe constraints placed by the government on our examination of the bill, and these had consequences for our study.

Many of us are familiar with the maxim “first, do no harm,” a fundamental precept of medical ethics. As legislators, we would be wise to heed this maxim. I am convinced that by this test, we would have no choice but to defeat Bill C-10 because this bill will do harm to the criminal justice system in this country and likely irreparable harm to the lives of many Canadians.

Judge Barry Stuart, retired Chief Judge of the Yukon Territorial Court, put it well when he appeared before our committee last week. He said:

The last, the most important thing I would say is . . . we cannot afford some political idea to float if it does not meet the best evidence test. You probably spend more time looking at best evidence in purchasing military aircraft than you do in looking at what you will do with our youth. . . . You need to look at this carefully on the evidence. If the evidence supports it, fine. If the evidence does not, I hope you will have the courage to say no.

Honourable senators, we should have the courage to say no.

Regrettably, as I described earlier today, we and our colleagues in the other place have not been given the opportunity to give this bill the careful study it deserves and demands.

• (1730)

The short title of this bill is “Safe Streets and Communities Act.” This is a goal every one of us shares. Who would not want to make our streets and our communities safer? All of us want those who break the law to receive the most just and the most appropriate sentence.

However, a fair reading of the evidence we heard would lead one to conclude that, in fact, many of the provisions of Bill C-10 will make our streets and communities less safe and will result in Canadians receiving sentences that are neither just nor appropriate.

A centrepiece of this legislation is the extensive use of mandatory minimum sentences, so heavily relied upon by this government, yet not a single study has been produced by the government or its supporters in defence of this policy.

Let me tell you what the studies do show. The Centre for Criminology and Sociolegal Studies at the University of Toronto puts out an excellent publication called *Criminological Highlights*.

It is read and relied on by officials in the federal and provincial governments, judges, police officers, lawyers and academics and has subscribers in 35 countries around the world. It is, in other words, a respected, valued publication in the criminal justice system the world over. For the February 2010 issue, researchers looked at a wide range of serious studies on the effect of imprisonment. They reached a number of pertinent conclusions. First, they state:

Incarcerating offenders who could be given non-custodial sanctions does not reduce the likelihood that they will commit further offences. In fact, incarceration may increase the probability of recidivism.

Second, they state:

First-time imprisonment of offenders increases the likelihood that they will re-offend.

Third, they state:

Numerous studies have shown that mandatory penalties do not affect crime rates. The evidence is equally consistent in showing that they interfere with accountability and the efficient operation of the criminal justice system.

Honourable senators, these are significant and, I would have thought, highly relevant conclusions for any government interested in making streets and communities safer. I would have expected our government, particularly since it professes itself to be focused on outcomes and accountability, to be interested in avoiding these kinds of outcomes. Instead, we have a government focused on silencing any voice that does not join in the choir to sing the praises of its ideologically based decision making.

Last May, the Harper government stopped its funding of this University of Toronto publication. It was not expensive. I understand it was some \$25,000 a year. However, money was never the issue, colleagues, because we have all seen this government's tendency to fund only those publications that agree with its policies and to stop funding those who dare to disagree.

An Hon. Senator: They are very insecure.

Senator Cowan: I fear this is what happened here. Happily, the Liberal government of Ontario stepped into the breach, and this highly respected publication will live on.

In November of 2010, the well-known not-for-profit organization called The Sentencing Project published a paper entitled, “Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment.” It looked at studies on sentencing, including a Canadian meta-analysis that reviewed 50 studies dating back to 1958 involving a total of 336,052 offenders. The Sentencing Project Found that imprisonment versus remaining in the community was associated with a 7 per cent increase in recidivism. In other words, colleagues, locking someone up instead of keeping them in the community makes them significantly more likely to reoffend, and, of course, that means more dangerous streets, more dangerous communities, more victims and more costs of crime.

A number of us on this side have asked the Leader of the Government in the Senate repeatedly about the monetary costs of her government's crime bills. She has repeatedly said in response that her government is more concerned about the costs to victims. Well, colleagues, the evidence — the real, serious studies — is clear. The policies contained in Bill C-10 that would impose mandatory minimum terms of imprisonment and specifically reduce the ability of a judge to order a sentence served in the community are policies that actually increase the likelihood of crime and increase the number of victims. If this government were truly concerned about the victims of crime and the costs to victims, it would withdraw and redraft this bill.

The fact is, honourable senators, mandatory minimums do not work to reduce crime, but there is another, equally serious problem with mandatory minimum penalties. They actually undermine the foundation of our system of criminal justice.

Let us be clear. The issue is not the length of the sentence, although there are some very strange mandatory minimums provided in this bill with some child sex offences receiving lower mandatory penalties than some drug offences. Some proponents of this bill will graphically describe some heinous crime as reported in the media and then smugly ask opponents, "Do you not agree that is too light a sentence?" That, honourable senators, is not the issue. Indeed, I believe that kind of argumentation distorts the debate and obscures the real, serious issue.

Graham Stewart, who, until 2007, served as the executive director of the John Howard Society, expressed it well: "The opposition to mandatory minimums is not the penalty; it is the decision-maker."

Sitting here in this chamber, literally high on the hill — Parliament Hill — are we best placed to anticipate the circumstances of every possible case that may come before a judge so that we can say now, possibly years in advance, before an offender is even born, that this is the penalty that must, as a minimum, apply to that accused individual?

Senator Mitchell: Absurd.

Senator Cowan: Former Supreme Court Justice John Major is an eminently respected jurist; indeed, he was entrusted by this government to conduct the Air India inquiry. He was interviewed on CBC's *The Current* on December 15, 2010, about mandatory minimum penalties. He was asked whether he thinks they are a good idea. Here is what he said, and I quote:

No. No I don't. No two crimes are the same. No motivation is the same. And you can't put the square peg in a round hole all the time. I don't know that there's ever been an identical crime committed by strangers.

Senator Tardif: That is right.

Senator Cowan: Former Justice Merlin Nunn said practically the same thing to our committee last week. Based on his 22 years of experience as a Supreme Court trial judge in Nova Scotia, this is what he said:

I am not in favour of mandatory sentences because I have seen so many different situations of a particular offence. You could do the same offence five times with five different people and it is a whole different set of circumstances.

Honourable senators, we have an excellent criminal justice system in Canada. Indeed, it is a model for the world. A fundamental principle of our system is its careful balancing of the roles, powers and responsibilities amongst the police, the Crown prosecutor, the defence lawyer and the judge.

Another absolutely foundational principle is that a judge decides each case on its merits, judging the accused person before him or her on that day. It is not a one-size-fits-all justice system. Criminal justice is not a vending machine where you press a button, A1, B5 or B6, and out pops a sentence. Vending machines usually dispense junk food, and we should aim for something higher when we dispense justice to Canadians.

Graham Stewart told us that "the reality is that once you start making justice arbitrary, you cannot maintain public confidence." Mandatory minimum punishments are, by their very nature, arbitrary, and as Mr. Stewart told us, public confidence in the judiciary in the United States, which, as he put it, has mandatory minimums scattered throughout the system, is much lower than here in Canada.

I know that the government opposite and their supporters do not like references to the U.S. experience. No wonder, but it is a cautionary tale.

As Mr. Stewart emphasized to us, when our American neighbours introduced mandatory minimums, they were not deliberately setting out on a program to increase their prison population. Back in the 1970s, nobody knew where introducing a few mandatory minimums would lead. They wanted more public safety, and they thought that this was the path to that end.

• (1740)

Let me read to you from Mr. Stewart's testimony on the results. These are startling statistics, honourable senators:

Today, one in every 100 American adults is in jail — not having been in jail — but in jail today, one in every 100.

One in 30 men between the ages of 20 and 34 is in jail — one in every 30, and for Black men that age, it is one in every nine.

Five states, Vermont, Michigan, Oregon, Connecticut and Delaware, now spend more on their correction systems than on their post secondary education system. In every school classroom in America, there are two children that have a parent in jail. More than any other cause, and there are a number of different causes, the difference in causes of the incarceration rates between Canada and the United States reflects sentencing policy and, in particular, the use of mandatory minimums.

He went on:

While the United States embraced mandatory minimum sentencing, Canada, through various governments of different political stripes, avoided the wedge politics that this creates and instead developed sound sentencing policies that reflected values of Canadians and left sentencing to the judges.

Last week, all of us received an extraordinary letter from an organization called Law Enforcement Against Prohibition. This is an American organization, and the letter was signed by retired American chiefs of police; judges; prosecutors; corrections officials; law enforcement officers; legislative counsel; and federal border, customs and immigration officials. They focused on the drug portion of Bill C-10 and they were, as they said, extremely concerned about our proposed legislation, which they described as similar to those that have been, in their term again, such “costly failures” in the United States.

The letter went on:

These policies have bankrupted state budgets as limited tax dollars pay to imprison non-violent drug offenders at record rates instead of programs that can actually improve community safety.

In fact, honourable senators, jurisdictions that have tried mandatory minimums are now taking a hard look at those policies and are, in some cases, undoing them. They look with disbelief as we proceed, seemingly oblivious to the evidence, down a path that they know, to their sorrow, has been a failure and which has cost so much in lives and taxpayers’ dollar.

Just this week, Louise Arbour, a former Canadian Supreme Court Justice and UN Commissioner for Human Rights; together with Richard Branson, the well-known founder of the Virgin Group; Fernando Henrique Cardoso, the former President of Brazil; Ruth Dreifuss, the former President of Switzerland and Minister of Home Affairs; and Thorvald Stoltenberg, the former Minister of Foreign Affairs of Norway and the UN High Commissioner for Refugees, sent an open letter to all senators on behalf of the Global Commission on Drug Policy. The commission also includes former U.S. Secretary of State George Shultz and the former Chair of the U.S. Federal Reserve Paul Volcker, just to name two.

They wrote to urge us to vote to reject the proposed mandatory minimum sentences in Bill C-10. They said:

Building more prisons, tried for decades in the United States under its failed War on Drugs, only deepens the drug problem and does not reduce cannabis supply or rates of use. . . . with the proposed implementation of mandatory prison sentences for minor cannabis-related offences under Bill C-10, Canada is at the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective at meeting its objectives.

John Paul Stevens, who served on the U.S. Supreme Court from 1975 to 2010, wrote a fascinating article in the November 2011 issue of *The New York Review of Books*. It was a review of a book

by William Stuntz called *The Collapse of American Criminal Justice*. I will read one paragraph:

Rather than focus on particular criminal laws, the book emphasizes the importance of the parts that different decision-makers play in the administration of criminal justice. Stuntz laments the fact that criminal statutes have limited the discretionary power of judges and juries to reach just decisions in individual cases, while the proliferation and breadth of criminal statutes have given prosecutors and the police so much enforcement discretion that they effectively define the law on the street.

That is exactly what many predict will happen here as well.

As I said a few moments ago, our criminal justice system is founded on a careful balance of the roles among the police, prosecutor, defence and judge. Bill C-10 would radically change this balance, and there has been no evidence presented that it would be a change for the better. Let me explain.

Knowing that the judge will have lost any discretion with respect to a jail sentence for a particular crime, the discretion will shift down to the prosecutor and, indeed, the police to decide what someone should be charged with — an offence that carries a mandatory minimum or something else — and on what terms. Our committee heard evidence how this will increase the number of plea bargains as offenders agree to plead guilty to a lesser charge in order to avoid a charge that carries a mandatory minimum.

That is discretion exercised by a Crown prosecutor, and there will be increased reliance upon discretion exercised by the police, as well. Indeed, a number of senators opposite pointed proudly to statements made by police representatives during the hearings when we were assured that, even though Bill C-10 would impose a mandatory minimum sentence for certain behaviour — offering to share a drug with a friend at a party, as an example, for no money, regardless of whether that friend accepts — we were told not to worry, because the police have assured us they will not charge that person.

Honourable senators, we are being asked to remove discretion from our judges, who are trained to exercise it impartially and dispassionately, and give it instead to police officers.

Senator Tardif: Incredible.

Senator Cowan: Unquestionably, most police officers will use that discretion in the public interest as they see it. However, we have seen far too many instances in recent years of police officers abusing their discretion and, indeed, the public trust.

Do we truly believe that Canadians are more comfortable with giving police more discretion than with judges assessing just and proper sentences?

There is also a serious problem of Bill C-10 stretching our criminal justice system further than it has ever been stretched before. Justice Barry Stuart testified that if everyone pleaded “not

guilty,” the criminal justice system would simply shut down. It is simply not equipped to deal with that volume of trials. When charged with an offence that carries a mandatory minimum jail sentence, what incentive is there to plead guilty?

The Canadian Bar Association, which represents both defence and Crown lawyers, told us in unequivocal terms that Bill C-10 will put an inordinate strain on the overall workload of the players in the criminal justice system. Daniel MacRury, Chair of the CBA’s National Criminal Justice Section, testified as follows, and he is speaking about Nova Scotia:

Plea bargaining is a reality. In our jurisdiction, about 15 per cent of matters actually go to trial at the end of the day.

That is 15 per cent.

If more matters are going to trial, where is the capacity for that?

I also want to address the role of victims and their interests. I am sorry that Senator Boisvenu is not here for this. This government has held itself out as first and foremost concerned for the best interests of victims and victims’ rights. Sadly, I believe the government is raising expectations beyond what this bill will or could achieve.

First of all, the promise held out is that mandatory minimum penalties will reduce crime and protect people from becoming victims in the future. The facts, honourable senators, simply do not support this. To the contrary, the best evidence and the best studies, not contradicted by evidence or studies produced by the government, is that mandatory minimums will reduce public safety in the long run, will increase crime and, therefore, will obviously create more victims.

We heard repeatedly that victims want to be engaged in the criminal trial process. I fear they will be disappointed, as the pressures on the court system will result, as I have said, in many plea bargains and deals made behind closed doors, to which victims are not a party, and potentially cases dismissed altogether as the trial list is simply too long.

• (1750)

Steve Sullivan was the first Victims Ombudsman appointed by the Harper government. He speaks his mind, whether or not it agrees with the government. Not surprisingly, he was not reappointed to this position.

Senator Cordy: Surprise, surprise.

Senator Cowan: Regrettably, he did not get an opportunity to appear before our committee, but he did testify in committee in the other place. Here is some of what he had to say; and remember, this is the Victims Ombudsman:

From working on the front line and having discussions with many of my colleagues there and with a lot of our networks, the issues in this bill, frankly, are not the issues that come up when we talk about the day-to-day challenges of victims of crime.

He later went on to say:

... crowns are going to be busier. They’re going to have more trials; there will be more plea bargains and more stays. That’s not an agenda that’s going to help the victims of crime who are seeking justice.

Jamie Chaffe of the Canadian Association of Crown Counsel warned us that the added workload that Bill C-10 will place on the system “will negatively impact on the public safety of Canadians, the rule of law and public confidence in the administration of justice in Canada.”

Mr. MacRury of the Canadian Bar Association told us this:

People will look for prosecutors and put pressure on them, for example, to elect summary instead of indictable when it is clearly an indictable offence. Then you are in a situation such that do you allow that election so an injustice does not happen? I do not think that is a just result because, at the end of the day, you are explaining to a victim, for example, that we are going summary. That is not fair to the victim, either. We are dealing with a bunch of people that we have to treat fairly in the system and we have to be transparent. The concern I have is that it is transparent now when we have it in an open courtroom, but if we are encouraging what I call “election bargaining,” which will happen under this act, I do not think that is healthy, either.

With Bill C-10, the Harper government is bringing the same Orwellian definition of transparency to the criminal justice system as it has brought to the government itself.

Honourable senators, I also want to speak about what some of us have called “the false dichotomy” of victim versus offender. In fact, the evidence is that there is often no clear line: Far too frequently, offenders in fact used to be victims. Kim Pate of the Canadian Association of Elizabeth Fry Societies gave very strong testimony about this:

In Canada, there have been many reports, particularly in terms of the over-representation of Aboriginal people who have first been victimized. Before this committee, I have mentioned previously that Corrections identifies that about 91 per cent of the women serving federal sentences have histories of abuse, and many of them may be in for defending themselves or reacting to violence. Yet, that is not differentiated once they get into the system and certainly does not assist them or others in terms of developing a method that will encourage more punitive reaction to their criminalization.

She later elaborated in reply to questions from Senator Dagenais that we should be doing more to deal with the determinants of crime by intervening earlier through:

... better social services and more universal approaches, whether it is enhanced school programs and recreational programs, all the things we know that put children at less risk of ending up in a vulnerable situation either to be preyed upon or to become, themselves, involved in criminal activities.

There was a great deal of evidence that the impact of this bill will be felt disproportionately by Aboriginal Canadians. They are already, as we have heard, grossly overrepresented in our prison system. While they are only 4 per cent of the general population, they make up almost a quarter of the prison population. Out west, the statistics are even worse. In Saskatchewan, Aboriginal Canadians comprise 11 per cent of the population, but 81 per cent of new admissions to prison. As Assembly of First Nations National Chief Shawn Atleo has said many times, children from some Aboriginal communities are more likely to end up in jail than to graduate from high school.

Justice Barry Stuart, again, has a long experience with Aboriginal offenders. He was very clear with us: He is not against the use of jail, but his long experience showed him that jail alone is ineffective. It must operate in conjunction with community supports, and that means community resources.

Justice Stuart is also now a member of the Smart Justice Network, a non-partisan group of Canadians with extensive experience who have come together to work for a better, evidence-based way for criminal justice. He spoke at a press conference held following his appearance before our committee. He described seeing over and over again children who had been taken from their homes, placed, with the best of intentions, in care and ending up in youth court. When he testified before our committee, he put some numbers on this. He told us that since leaving the bench, he has been visiting some of his, as he described them, “customers” in jail, and in one of those sessions they held a circle. He asked the offenders in the circle to put up their hands if they had ever been in care. Of the 27 offenders — and this was a maximum security prison — over three quarters had been in care.

Justice Stuart believes adamantly that we spend far too much money at the end of the process — on criminal justice and our prison system — and nowhere near enough at the front end, where the problems set in.

Professor Michael Jackson of the University of British Columbia’s faculty of law told us that prison has become for young Aboriginal men and women what the residential school was for their parents and grandparents. He said: “The promise of a just society was not a college education but a term in a federal institution.”

Honourable senators, many of us were here when the Prime Minister made the historic, long overdue and deeply moving apology to Aboriginal Canadians for the residential schools. However, the apology is not enough. We cannot move from the apology to ignoring the consequences of that terrible time for Aboriginal Canadians today and locking up more and more Aboriginals in our jails when there is strong evidence that there is a connection. When will it stop? We had residential schools that seem to have set in motion the terrible cycle of victimization and crime. Now, are bills like Bill C-10 to place more and more Aboriginal Canadians behind bars and continue that cycle for their children? If there is any situation to demonstrate that justice is not a one-size-fits-all system, it is this.

Another problem with this government’s vending machine approach to dispensing justice is the impact this bill will have on Canadians with mental illness.

Howard Sapers, the Correctional Investigator of Canada, put it this way:

... the real question, I suppose, is how to deal with the fact that prisons are not hospitals, but some offenders are patients.

Let me give you some statistics. These were taken from the submission of Dr. John Bradford, a professor of psychiatry at the University of Ottawa and with the Royal Ottawa Health Care Group.

Thirty-eight per cent of men assessed at a federal prison showed symptoms of mental health problems, and 78 per cent of men in some studies showed a severe dependence on alcohol. The statistics for women are even worse. Seventy-eight per cent have drug problems, and approximately 70 per cent have problems that relate to alcohol. The degree of mental disorder or previous suicide attempts was extremely high — 41 per cent.

Honourable senators, these people need treatment, not prison. We know from the testimony of Mr. Sapers and others that our prisons are simply not equipped to provide the treatment these people need, nor frankly should they be. I do not go to a hospital expecting them to be able to provide correctional services, and Canadians should not be sent to prison to receive mental health services.

We heard very strong testimony from Derek Mombourquette, the vice-president of the Canadian Association of Police Boards. I will read briefly from his submission to the committee:

In 2012, we have a policing/mental health crucible in which police officers, trained in law enforcement, are the 24/7 first-line mental health care responders by default. At a time when communities are struggling to maintain a level of sustainable policing for safety and security, police resources are being diverted to issues that would be much better addressed within a health care system.

• (1800)

He concluded by saying:

In effect, correctional institutions regrettably have become the institutionalized care of the twenty-first century for those with mental illness.

Honourable senators, the evidence was clear that these problems will only get worse under Bill C-10. Senator Boisvenu was apparently prepared to accept this. In committee the other day, he said, well, our mental institutions do not have the capacity to deal with all the mentally ill, so it is okay to send the others to prison. That way, Canadians are safe from them.

Does the government agree with Senator Boisvenu? Does the government share his views concerning the treatment and care of the mentally ill? What he describes is certainly not any concept of justice that any of us on this side of the chamber would recognize and support.

Let us not lose sight of the fact that the costs of this punishment and vengeance spree will in fact mean that there will be less money available to provinces to provide the care that the mentally ill need in order to stay out of prison in the first place.

Colleagues, the Department of Justice conducted a survey in 2007 of Canadians' views about the criminal justice system. They asked respondents to rate which sentencing objective they rated as most important. The results were striking. Rehabilitation of the offender ranked first out of seven objectives. Denunciation ranked dead last, with fewer than 2 per cent selecting that as the most important.

However, during our hearings we heard very disturbing testimony about the current inability of our prisons now to provide the needed programs and treatment to inmates. Here is what Howard Sapers — and you will remember that he is the Correctional Investigator of Canada — said:

On February 1, I took a snapshot of inmate involvement in programs. I found, for example, that at Kingston Penitentiary, which has a current count of 356 inmates, there were only 47 inmates currently involved in a core correctional program, yet there was a waiting list of 177.

On that same day, at Bowden Institution in Alberta, there were 579 inmates on count, 102 — less than 20 per cent — were involved in a core correctional program, with 163 on the waiting list. At Collins Bay, with a count of 466, less than 10 per cent — 42 offenders — engaged in a core correctional program with a waiting list of nearly 180.

Even now, inmates who want to better themselves are denied the opportunity because there are no resources. Bill C-10 will only increase the pressures on our correctional services and make the waiting lists even longer.

How will this increase public safety? How will this make our streets and communities safer? We know that prison can be a school for crime, where first-time, non-violent offenders learning the wrong lessons from hardened criminals; and we know that we are failing to provide our inmates with the programs and treatments we believe they need to return safely to their communities.

Honourable senators, these offenders will get out of prison one day, and when they do, the evidence suggests they will present a greater danger to the public than when they went in.

Some of you, when you were coming in this morning, may have heard "The Current" on CBC Radio. I wanted to read to you what I thought was a striking conversation. It was an interview involving Rob Sampson, who was the Minister of Corrections in the Harris government. I believe he perhaps succeeded Senator Runciman as minister in that capacity. He was also the author of the "Road Map," which is the program that was relied upon by the government and by the Correctional Service of Canada in coming up with Bill C-10.

The other participant in the panel was Eric Sterling, who was formerly legal counsel to the U.S. House Judiciary Committee when they came up with mandatory minimums, which he now says was a huge mistake.

I want to read to you a bit of the exchange. This is Mr. Sampson:

Well, in the Ontario system, and even in the federal system now, the average education level is about grade eight. None of them, I would say 80 percent to 90 percent of the people under the Ontario system, and I think the numbers in the federal system are about the same, are unemployable. They literally have no employable skills. And so to bring them into the justice system, sentence them to six months at home, and then push them back into the public again is not helping them. And guess what? They come back again! Why? Because the best source of income they know is moving drugs from A to B.

ANNA MARIA TREMONTI: But if they . . .

ROBERT SAMPSON: They (inaudible) hold a job —

— I presume he said they cannot hold a job —

— they don't have a skill that can hold a job. And so the system needs to have them long enough to be able to provide them those skills and resources.

ANNA MARIA TREMONTI: So you are saying they should go to prison to learn a trade?

ROBERT SAMPSON: Well, they should go to prison so they have an opportunity to change their life around and get out of the cycle that they're into now. That's the problem. We . . . smaller, shorter sentences don't provide the system long enough time to help these people out. Grade eight education! How long did it take you to get a high school education? Six weeks? Six months? No! It takes some time to help these people realize the job that they're in now, which is peddling and using drugs, is not the right job for them!

There was silence from Anna Maria Tremonti, but then Mr. Sterling said:

With all due respect, it sounds absurd to me that we're going to use mandatory sentences as a device to educate uneducated drug addicts and believe that we can move them from an eighth grade to a 12th grade level in a year or two. What we found in the United States was by overcrowding our prisons, we had to spend so much on the security side that the educational and rehabilitative functions got zeroed out.

That was this morning.

Honourable senators, Bill C-10 is also designed to make significant changes to the Youth Criminal Justice Act. Colleagues will recall that the Quebec Minister of Justice, Jean-Marc Fournier, came to Ottawa in November to plead with the government not to make a number of these changes. He pointed to the success of Quebec's approach — one grounded in the goal

of rehabilitation over incarceration. He met with Justice Minister Nicholson, but left empty handed. The federal government refused to listen to his arguments. This is what he said:

This isn't a tough-on-crime measure we're seeing today — it's a tough-on-democracy measure.

Justice Minister Fournier described asking Minister Nicholson for the studies on which the government was relying to make the changes proposed by Bill C-10. We are talking about youth criminal justice here. No study was put forward.

Later, the Justice Minister did come forward with a single document that the government was relying upon. This was the report of the Nova Scotia Nunn Commission of Inquiry, submitted by Justice Merlin Nunn, the retired justice of the Supreme Court of Nova Scotia.

Justice Nunn was very clear when he appeared before our committee. Some of the changes in Bill C-10 he supports, as do we all, but he emphatically does not support a number of the major provisions. He told us that youthful offenders — adolescent offenders — are fundamentally different from adult ones. It makes no sense to sentence them as one would an adult. It just does not work. In his words, "the experience over the years has shown that custody is not the way to go." However, Bill C-10 would increase the reliance on custody for youthful offenders. Justice Nunn adamantly opposed the proposed addition of the principles of "deterrence" and "denunciation" into the Youth Criminal Justice Act.

He told us about an offender who was convicted — this was the subject of his inquiry — and placed in Waterville, a youth correctional facility in Nova Scotia. As Justice Nunn described, he was doing well there, passing Red Cross swimming levels, learning the guitar and learning to enjoy reading. He planned to go out west and learn to become an electrician. Then he turned 18 and was transferred to an adult prison.

• (1810)

In Justice Nunn's words:

It is just a terrible place to send a young boy. You may read about some of the stuff that goes on in these prisons but we kind of forget about them. We just say they happen, I guess, and no one pays much attention. I think that is why he got in trouble when he got out. I think he lost the rehabilitation that had gone on in the youth custody prison.

This young man did not go west and learn to become an electrician. Instead, he has been arrested three or four times since his release from prison. Honourable senators, is that how we make our streets and communities safer? I think not.

The Nunn Report was the only study that the Justice Minister produced in support of his changes — and the author was quick to go on record saying that the changes go too far. Senator Angus said to Justice Nunn: "It looks like we have gone a little beyond what your recommendations said."

Many witnesses cautioned us that the bill's provisions for youth criminal justice are not a positive step for criminal justice or for public safety. We heard submissions from UNICEF Canada. Their brief said:

For many of the proposed changes, there is no evidence or experience that shows they are likely to increase public safety or decrease youth crime. In fact, they may have the opposite effect.

The representatives of UNICEF told us about a cross-country roundtable organized by the Minister of Justice in 2008. Participants included representatives from the judiciary, prosecutors, defence counsel, legal aid, police, RCMP, academics, NGOs, psychologists, researchers, children's mental health and youth justice programs, provincial/territorial governments and provincial/territorial child and youth advocates. The round table report summarized the feedback as follows:

There was an overwhelming consensus that the perceived flaws are not in the legislation; . . .

He was talking about the Youth Criminal Justice Act.

. . . the flaws are in the system. Any changes should be evidence-based and made following the same thoughtful process that gave rise to the development of the YCJA in the first place.

This was the overwhelming consensus of all who operate on the front lines of the criminal justice system as it deals with young people. Did the Harper government listen to their years of experience? Obviously they did not because instead of evidence-based changes to the system, we have been presented with ideologically-based changes to the existing law. Far from a thoughtful process, we have been forced to consider these changes as one part of a 9-part omnibus crime bill, rushed through Parliament to meet the completely arbitrary and artificial Prime Minister-decreed 100-day deadline.

Some honourable senators opposite have defended the bill by saying it is targeted to youth who commit serious, violent, repeat offences. The problem is that is not all that the bill does. The bill, as written, captures those offences and much, much more. One witness, Dr. Joel Watts of the Institut Philippe-Pinel of Montreal, compared it to dragnet fishing. He said:

We may be catching individuals we want to catch, but we will also catch some of the individuals that maybe we would perhaps not want to have clogging up our criminal justice system.

He was speaking about the bill capturing people with mental illness, but I believe his comments apply with equal force to many other parts of the bill.

Certainly with respect to the youth criminal justice provisions, UNICEF was clear in its brief, which said:

In attempting to rein in the most violent offenders, they cast too wide a net. We need to treat violent crimes seriously. But the proposed changes would incarcerate more youth for far less serious crimes. It's not difficult for youth to get into the justice system. Once in, however, it is very difficult to get out.

Surely our youth deserve better than a government whose only policy for young people is to punish them more severely for their mistakes.

Honourable senators, I spoke earlier about how the existing pressures and stresses on the criminal justice system will only get significantly worse under this bill. We heard representations to this effect across the board from police officers; lawyers, both Crown and defence counsel; Correctional Services; mental health professionals; the judiciary; and community organizations.

The Harper government has refused to come clean with Canadians about the true costs of this bill, and they have refused to engage with the provinces and territories, jurisdictions that will bear much of the cost associated with this bill and that must be involved if we are truly to make our streets and communities safer.

I quote two paragraphs from an editorial that appeared in *The Chronicle Herald* this morning:

Prime Minister Stephen Harper certainly campaigned for a mandate to get tough on crime. So he can fairly claim voters supported this agenda in giving him a majority.

But we don't recall Mr. Harper asking for a mandate to get tough on provincial taxpayers by making them pay the lion's share of what it will cost to lock up more offenders.

The Parliamentary Budget Officer tabled a report earlier this week setting out his office's estimation of the costs of one part of this omnibus bill. He revealed costs where the government had suggested there would be no additional costs and that was just one part of the bill. The Harper government has stonewalled the Canadian public at every turn as to the costs of its lock-'em-up plan. We all recall how this government was found in contempt of Parliament — an historic first in Canadian history and indeed amongst British Commonwealth governments. That was because this government refused to disclose the costs of its earlier crime bills.

The Parliamentary Budget Officer's report notes that its analysis "was hampered by a lack of data. Actual data was not forthcoming from Public Safety Canada." Yes, honourable senators, why stop at stonewalling Parliamentarians and the Canadian public? The Harper approach to law-and-order is evidently to put roadblocks in front of anyone trying to find out the truth about its policies, even our Parliamentary Budget Officer. It took two people working for five months to be able to come up with the costing figures for this one part of the bill on conditional sentencing. The PBO estimates that this change alone will cost the federal and provincial governments \$145 million annually. Again, this is just one part of this bill.

The Government of Ontario filed a submission with us on February 21, in which they told us that they have determined that Bill C-10 could cost Ontario taxpayers more than \$1 billion in increased provincial correctional and police services costs alone. It states that it wants to work with the federal government to address these concerns and says:

In our view, it is not appropriate for one level of government to create financial burdens for another without discussion and an appropriate financial offset.

[Senator Cowan]

The Harper government continues to deny any responsibility for the burdens it is placing on Ontario taxpayers.

The Government of Prince Edward Island wrote to our committee on February 23. It is highly critical of the bill, saying that it:

... marks a significant shift in the long-standing sentencing principles enshrined in the Criminal Code, a shift which could have a negative impact on the administration of justice within the province.

On the issue of mandatory minimum penalties, it says:

Removal of judicial discretion in favour of one-size-fits-all sentencing will, in some cases, result in unjust dispositions. Moreover, this approach will have the result of incarcerating individuals unnecessarily, which will serve only to increase costs and do nothing to improve the safety of our streets and communities.

To be clear, our misgivings about mandatory minimum penalties are not an endorsement of individuals who commit serious crimes, particularly crimes against children. It stems from our confidence in our judiciary to impose fair and just sentences, in accordance with the rule of law and the principles enshrined in the Criminal Code.

PEI also anticipates that Bill C-10 will result in a significant financial burden to their province and is in the process of assessing those costs.

The Justice Minister of Nunavut came and testified before our committee. Minister Shewchuk told us that Nunavut is likely to be the most affected by the new regime provided in Bill C-10. He described how the bill will result in more overcrowding in its correctional facilities. It will result in more offenders being sent to southern facilities — a high expense and a step that is known to exacerbate the difficulties of an offender returning successfully to their community. Minister Shewchuk told us how most Nunavut offenders who are caught up in the criminal justice system are dealing with the cyclical repercussions of family violence, poverty, substance and alcohol abuse, and often mental illness. He said:

Bill C-10 will divert the financial resources that we require to address the root causes of criminal behaviour and to fund rehabilitation programs to support a punishment model that will add further stress to our already overburdened corrections infrastructure and courts.

• (1820)

Earlier this week, Senator Lang, when speaking on the gun control bill, said this: "... you reduce crime by spending taxpayers' money effectively. You do not reduce crime by spending taxpayers' money on a system that does not work."

I agree.

We know that imprisonment for minor, non-violent crimes does not work to reduce crime. In fact, it can increase crime when the person gets out. In the meantime, the money spent on that incarceration is money that was not spent on the things that we know — yes, know, based on hard evidence — do work to fight crime.

The average university tuition in Canada per undergraduate student per year is \$5,140. However, we spend between \$90,000 and \$140,000 to keep each man in a federal institution for a year, and \$185,000 for each woman. Which is the better expenditure of scarce public dollars? We know where provincial and territorial governments think the money should go. If this government truly believes, as it says it does, in respecting areas of provincial and territorial responsibility, how then can it turn around and impose this bill upon them, which will require them to divert huge sums of money away from their chosen priorities? How can it do so without even a semblance of discussion or negotiation with the provinces and territories?

Honourable senators, this is the new federalism: unilateral declarations on health care funding and now a flood of new inmates for provincial correctional facilities, courtesy of the federal government.

Colleagues, by passing this bill we are raising high expectations amongst Canadians as to the positive impact it will have in making our streets and communities safer, but unless we are prepared to commit resources throughout the system, then I am afraid Canadians will be severely disappointed. Solutions to complex problems based upon ideology rather than evidence will not deliver safer streets and communities for Canadians.

In my speech earlier today, I quoted extensively from the article by the Honourable Roy McMurtry, Edward Greenspan and Anthony Doob. They urged us to start from basic facts. Let us do so now, even if only briefly.

The crime rate in Canada has been steadily going down and in fact is at its lowest level in 30 years. The problems we are trying to address — and I think all of us acknowledge that there are problems — are not capable of being solved by us alone as federal legislators, however well-intentioned. I think Justice Barry Stuart had it right: The issues are deep-rooted. Laws and the criminal justice process focus at the end of the problem, when in fact jail alone is ineffective. It can only work effectively in conjunction with community supports.

It is little more than smoke and mirrors to pass criminal laws and then say, “We have addressed that problem; let’s move on to the next.” It will not work. Our streets and communities will not be safer. We are holding out false promises to Canadians if we say that. The problems simply cannot be solved by legislation alone and certainly not by amendments to criminal and quasi-criminal statutes such as we have before us today. We are not doing right by Canadians if we pass these laws and say, “That’s it, we’ve done our part. Our streets and communities are safe.”

As you know, I do not believe the measures in this bill are the right ones. I also do not believe that the legislative response alone will actually address the real issues. The real way, the most

effective way, is by engaging our communities, working with all levels of government as well as non-governmental health and community organizations that have experience and expertise in these areas.

David Mombourquette of the Canadian Association of Police Boards, and many others, urged the federal government to:

... take the initiative to work with its provincial and territorial partners, as well as other key stakeholders, to develop a seamless and comprehensive delivery system that combines strong enforcement and prosecution with meaningful programs for prevention and rehabilitation. . . .

The observations appended by our committee to the report on Bill C-10 broached some of these issues. The government should take these observations to heart and then invest in policies that will make a meaningful and positive difference in the lives of so many Canadians. Let us recognize and cooperatively deal with the root causes of crime, like poverty, substance abuse, mental illness and lack of education.

Colleagues, I have spoken at length but have touched on only a few aspects of this omnibus bill. Others will have time, but unfortunately not enough time in this abbreviated debate, to discuss in greater detail some of the other measures it contains, such as the changes to the Controlled Drugs and Substances Act, the changes to the Corrections and Conditional Release Act, and the broad and unconstrained discretion this bill would grant to the Minister of Public Safety with respect to the international transfer of offenders.

I will conclude by saying that while there are parts of this bill that may in fact be positive changes, on balance Bill C-10 represents a big step backwards for Canadian justice and for all Canadians. Contrary to its short title, it will not make our streets and communities safer. The title is positively Orwellian because the serious evidence we heard in our committee suggests it will have the opposite effect.

In committee we proposed a number of reasonable, evidence-based amendments that we believed would temper the most objectionable parts of the legislation. Unfortunately for Canadians, the government used its majority to defeat all of them.

Honourable senators, I believe that we should legislate on behalf of Canadians on the basis of evidence and not ideology. This bill fails that test. Applying the test I proposed at the beginning of these remarks - “First, do no harm” - we cannot support this misguided legislation because of the harm it will bring to Canadians and to our criminal justice system.

Senator Runciman: Will the honourable senator take a question?

Senator Cowan: Absolutely.

Senator Runciman: The senator spent a good deal of his speech this evening decrying mandatory minimum penalties. Between 1976 and 2005, 30 mandatory minimum penalties were instituted, all under Liberal governments. I am assuming that Senator Cowan was here for at least some of that time.

Senator Cowan: I was not.

Senator Runciman: Were you not here up until 2005?

Senator Campbell: None of us were.

Senator Runciman: These were all instituted under Liberal governments.

I must ask: Why are mandatory minimum penalties so offensive now that a Conservative government is instituting them and bringing them forward and they were not under Liberal governments?

Senator Cowan: That is a very good question and my answer is simply I do not support those mandatory minimum sentences any more than I support these. I think the evidence — and you were there, you heard it — you have received all the —

Senator LeBreton: Oh oh.

Senator Cowan: Senator LeBreton, you will have an opportunity in a minute. You listen to me and I will listen to you. I was asked a question by Senator Runciman and I will reply. We will hear Senator LeBreton in a minute, if I can continue with my answer. Thank you.

I do not support mandatory minimums because everything that I have read over the last three or four years while I have been here, when I looked at the tackling violent crime bill before us three or four years ago, not long after I came to this place, and this bill, says that they do not work.

I have no reason to believe that the mandatory minimums imposed by previous governments — and I am sure Senator Baker and others who have been around will correct me — were all imposed by Liberal governments. Most of them were because the Liberal government was in place for most of that time. However, I believe I am correct that some of the mandatory minimums were brought in under the Mulroney government.

• (1830)

In any event, I think we should have a look at those. My point would be that, before we embark on increasing the number of mandatory minimum sentences, we should look very carefully at those we already have. It may be that those are wrong, just as I believe these ones are wrong.

The Hon. the Speaker *pro tempore*: Are there are further questions? Honourable Senator Jaffer.

Senator Jaffer: I have a question for the honourable senator. He spoke a lot about mandatory minimum sentences and the concerns he had. He was in committee throughout last week. Could he please tell us what we could do, if we had the time, so that there would be some kind of discretion left for the judges?

Senator Cowan: I believe the honourable senator addressed it briefly in her remarks earlier this afternoon.

A safety valve exists in the U.S., the U.K. and Australia, and it simply says that, in extraordinary circumstances, which would be determined by the judge, the judge would have the ability to impose a sentence other than the mandatory minimum sentence that is imposed by the law.

We proposed a general safety valve, and the government said no. Then we came back to two alternatives. One was to say, "Well, if you will not give us the general safety valve to restore to the presiding judge the right in exceptional circumstances to impose a penalty other than a mandatory minimum jail sentence, then do so in the case of Aboriginal offenders." The government said no. Then we said, "We have heard all about the incidence of mental illness in our system. Will you at least allow judges who have before them offenders suffering from mental illness to depart from the mandatory minimum?" The government said no.

The honourable senator is perfectly correct. We did propose a general mechanism — that safety valve — and then we proposed two specific ones — one dealing with Aboriginal offenders and the other dealing with mentally ill offenders. The government said no. These mandatory minimums will be there, and there will be no safety valve, no discretion left to the judges.

Hon. Jane Cordy: I thank the honourable senator for his speech. It was an excellent speech, and I was particularly taken with his comments regarding those who have poor mental health, which is what I spoke about at second reading. We know that one in five Canadians will have poor mental health at some point in their lives. Unfortunately, some of those Canadians with poor mental health will come into conflict with the law.

I do not really believe that those who have poor mental health when committing a crime or coming into conflict with the law would be very much aware of mandatory minimum sentences, so I am not sure that mandatory minimums would act as much of a deterrent for those who have a mental illness. Would the honourable senator not agree that society would be better served if those who have a mental illness or poor mental health when they commit their crimes were treated in a secure hospital environment, rather than languishing in jail with a mandatory prison sentence?

Senator Cowan: I thank the honourable senator for that question. As I explained in answer to Senator Jaffer's question, we did propose a safety valve that would enable a judge to impose a sentence allowing the person to stay out of incarceration and to receive treatment in the community.

This whole problem of the relationship between the mentally ill and the correctional system is deeply troubling to all. I know Senator Runciman was particularly concerned about that in the course of the hearings, and he was frustrated — as I am sure he will tell us later this evening — with the inability or unwillingness of the Correctional Service of Canada to deal with these people.

In the 1970s and 1980s, in a way that was followed in other Western democracies, most provinces closed down many of our psychiatric institutions and mental hospitals on the basis that those persons who had been institutionalized before could be

more appropriately helped and dealt with in the community, which we thought was logical at the time. What we found — and it was brought home again last week — is that the resources simply are not in the community.

I do not think anyone is suggesting that we would want to re-institutionalize all of those people in psychiatric institutions. Some of them maybe, but re-institutionalization is not the answer, not in psychiatric institutions and certainly not in correctional institutions. That is why I say it is a very complex problem.

There are some people who obviously need to be in a correctional environment, and they should and will be there. However, there have to be other kinds of institutions and other kinds of services available in the community, involving other departments of government and other governments and agencies, to deal with these people. In many cases, they are now simply being warehoused in our penal institutions, which are clearly unprepared and unable to provide care for them and, from the point of view of the proposed Safe Streets and Communities Act, to make sure that they do not reoffend when they are released.

The Hon. the Speaker *pro tempore*: Are there further questions for Honourable Senator Cowan? Honourable Senator Wallace.

Hon. John D. Wallace: I listened very closely to the honourable senator's comments and I must say that they reflect a perspective. Having been very much involved with this, as the honourable senator has also been, and understanding the issues in more detail perhaps than the general public would, I have heard the evidence that the honourable senator referred to. It certainly did not reflect the balance of the evidence I heard, nor would I expect that that is his role here. He brought a perspective to his comments when he referred to that testimony. Others, perhaps on this side, will bring the other side of the coin.

However, what I find in all of this — and I have felt this way as I have watched this debate unfold publicly in the media and in this chamber — is the over-simplification of it and the tendency to gravitate to and adopt catchy slogans and political phrases and to over-simplify the issue. We all know it is not a simple issue at all. The solutions are not simple. Certainly, the government is not suggesting that there are simple solutions. There are many steps that have to be taken.

An Hon. Senator: What about the title, "Safe Streets and Communities Act?"

Senator Wallace: Some of the comments the honourable senator made are that it is a one-size-fits-all bill, that it will result in a flood of inmates, that the government's position is, "Well, once this is done, that is it, we are done; let us move on," and that this bill relates to minor and non-violent offences. Those statements just are not correct.

Senator Cordy: Look at the title.

Senator Wallace: I believe it misleads the public every time those kind of statements are made.

I recognize the technique in debating of framing the debate. Politically, we all understand that and I guess that is what they are attempting to do with those kinds of statements. I think it does a real disservice to continue to perpetuate them.

There are so many things I could question the honourable senator on, but he made a statement at the outset of his comments, words to the effect that locking someone up instead of keeping them in the community makes our streets less safe. It is better for them to serve their time in the community as opposed to locking them up for a period of incarceration, I suppose that ties back into the mandatory minimum argument. It is better to let them serve their time in the community.

I ask the honourable senator, does he really believe that when he looks at the serious, violent, repeat offences that are targeted by this bill? These are offences such as publishing and distributing child pornography, sexual assault if the victim is under 16 years of age, sexual assault with a weapon against a child under 16 years of age, aggravated assault against a person under 16 years of age, and agreeing and making arrangements to commit a sexual offence with a child. In those circumstances, is a reasonable period of incarceration not appropriate? I would suggest to the honourable senators that the mandatory minimums set out in this bill are reasonable. Does the honourable senator believe, in those circumstances, that incarceration has no role and that it is better that they serve their time in the community on house arrest?

Senator Cowan: With respect, Senator Wallace, I did not say that at all. All I said is that you are taking away the discretion. The honourable senator is a lawyer and he has practised before our courts. I am sure he has defended people in our system, and he knows that it is the judge who sits there, fairly and impartially, listens to the evidence and observes the witnesses. Surely the honourable senator would agree with me that the judge is best able to determine what the appropriate sentence is in the circumstance. That is my position. My position is that the judge —

• (1840)

An Hon. Senator: They are taking away all that discretion.

Senator Cowan: I think Senator Tkachuk made the cut here, so he will be on the list in a little while.

I am saying, and I am sure Senator Wallace would agree with me, that the court system — that is, the judges that the honourable senator has appeared before, that I have appeared before and that Senator Oliver has appeared before as well — will know. Those people are trained to evaluate the evidence, to observe the demeanour of the witnesses and to make the appropriate judgment and impose the appropriate sentence. That sentence could be, in appropriate circumstances, prison; it could be a suspended sentence; it could be something else. What we are saying today is that we are removing that discretion from the judge. That is what I mean by one size fits all.

Listen to what Justice Major and what Justice Nunn said. I am sure that if you talk to judges in New Brunswick they will tell the honourable senator the same thing. People can commit the same offence, but the circumstances are all different. All I am arguing,

honourable senators, is that it is the judge who ought to have that discretion, and that to take away that discretion and for us to decide here and to embed in the law what the sentence ought to be for some case that will be well down the road, I think, is inappropriate. I certainly agree that in the kinds of cases the honourable senator is talking about a prison sentence is what would happen. Those kinds of people who commit those kinds of crimes in those circumstances would certainly go to jail. No judge is simply going to walk away from that. However, it is the judge who ought to have that discretion. We should not remove that discretion from the judge and we should not, as I said in my speech, delegate it down to the prosecutors or to the police to decide on those charges.

I think there is a great danger in turning our back on the system that the honourable senator has practised in and that I have practised in for many years and that has worked pretty well.

Senator Wallace: Would the honourable senator accept one further question?

Senator Cowan: Of course.

Senator Wallace: I have listened, again, closely to what the honourable senator has had to say. He suggests that the effect of this bill, in particular the imposition of mandatory minimums, would, in his words, remove judicial discretion. I would suggest to the honourable senator that it does not remove judicial discretion, it restricts it. It restricts that discretion to the periods between the mandatory minimums and the mandatory maximums. Within those periods, judicial discretion continues to exist and flourish.

I would also say that we, as legislators, do have a responsibility when it comes to sentencing. We have the responsibility to create the framework, the boundaries for sentencing. It is legislators that have the obligation to protect the public and craft legislation to protect the public. It is the role of the judiciary to interpret the laws that we create. Their role is not to protect the public. They are to interpret the laws that we develop, which are there for that purpose.

Senator Cowan: I think I said my piece.

The Hon. the Speaker *pro tempore*: Are there further questions of Honourable Senator Cowan?

Continuing debate, Honourable Senator Runciman.

Hon. Bob Runciman: Thank you, Your Honour; I appreciate this opportunity.

Honourable senators, with respect to Senator Cowan's last response to Senator Wallace, wherein he indicated that he felt the individuals in the examples referenced by Senator Wallace do deserve to go to jail, of course, that is the problem. In too many instances, they are not. I referenced one during the committee hearings of a man from Nanaimo, British Columbia, who was sentenced to house arrest. He pled guilty to five sexual assaults involving four children aged 7 to 14. Among the victims was an 11-year-old mentally challenged girl. He got two years less a day

to serve at home — in the home where he perpetrated those crimes. I could give honourable senators a list of situations like that over and over. Clearly, that is why this government is acting to deal with this very problematic situation.

Honourable senators, I know you are familiar with the bill; I will not go through it in detail. Instead, I would like to talk a bit about what we heard during the extensive committee hearings on Bill C-10.

I have spent a good many years in public office, including 29 years in the Ontario legislature, and I have not experienced anything any more intensive than the last few weeks on the Senate's Legal and Constitutional Affairs Committee. We heard from roughly 100 witnesses over the course of the committee's almost 60 hours of hearings, which included full days into the evening, in some cases, during a non-sitting week. The committee was confronted with a significant bill, a collection of nine previous pieces of legislation, in a tight time frame to get the job done. However, the committee did not just take a pass on Bill C-10. The committee members did their homework. They asked challenging questions, and they deliberated carefully.

I think it is fair to say that watching this committee at work is not like committees in the other place. There is no partisan sniping. We do not necessarily agree with each other, but there is, I think, a great deal of mutual respect.

I want to make special mention of Senator Wallace, our committee chair. He laid out a plan and he stuck to it. He was fair with both committee members and witnesses, and he kept the discussions on track when they began to meander. Through it all, he was guided by the need to listen to all points of view and to give Bill C-10 a thorough examination. Senator Wallace did an outstanding job under very difficult circumstances, and I would like to congratulate him.

Some Hon. Senators: Hear, hear!

Senator Runciman: I would also like to draw attention to the exceptional work of the committee's deputy chair, Senator Fraser.

She led the questioning of every witness panel, and with as many as eight panels in a single day, that is no small task. It requires a lot of preparation, and it was clear to anyone watching Senator Fraser that she had done her homework.

An Hon. Senator: Hear, hear!

Senator Runciman: Yes, let us give her a round.

Some Hon. Senators: Hear, hear!

Senator Runciman: I appreciate what Senator Fraser said yesterday about our committee clerk, Shaila Anwar, and Senate staff in arranging witnesses and ensuring that everything ran smoothly. If you know Shaila, you will realize that the men and women in this room are her second-favourite senators. To talk about sacrifice, one of our meetings was running late and caused her to miss almost all of a Sens-Capitals game; I think she got there for the last 10 minutes.

I also think Senator Fraser referenced this too, namely, senators' staff. I am sure that a lot of senators' staff were diligently working long hours. I know Barry Raison in my office was working over the weekend, preparing for amendments that we had not seen yet. It was a bit of a guessing game. We were given the clauses and sections of the act that might see amendments, but we had to sort of prepare them in the dark and be ready for any eventuality. I know he did an outstanding job, and I am sure the staff for other senators did as well.

I think it is safe to say that some honourable senators are unhappy with the outcome, but no one should complain about the process. It was thorough, and the witness panels presented a wide variety of points of view.

I would like to tell you about a call my office received in the middle of last week from a grandmother from Manitoba. She said that she had always been in favour of abolition of the Senate, but, after watching the committee hearings on television, she changed her mind. She now realizes the valuable work a Senate committee does — and, no, her name was not Plett.

The bill before us has been amended, as you have heard, to better serve the interests of victims of terrorism. These six amendments will enable victims to sue listed foreign states not only for their support of terrorism but also for direct involvement in committing acts of terror.

I would like to acknowledge Senator Tkachuk for his work on this file over the years. The justice for victims of terrorism act and the amendments to the State Immunity Act are the result in no small part of his devotion to this cause.

Hon. Senators: Hear, hear!

Senator Runciman: As noted by Senator Wallace, the report on this bill includes observations, and I think all of the observations are good advice to the government and reflect what we heard at committee.

• (1850)

I would like to speak about one observation in particular, because Senator Cowan referenced an issue that I have worked on over the years. No message came through more clearly than the failure of the correctional system to cope adequately with the large and growing percentage of inmates, particularly female, who suffer from mental illness.

As the committee heard from Public Safety Minister Toews and others, and I think Senator Cowan referenced this as well, this is due, in part, to the policy of deinstitutionalization. The theory is a good one, but it has been a failure in practice because community supports and supervision were not there when institutions were closed.

This is not a problem created by the Correctional Service of Canada, but it is one it has had to deal with. People suffering from serious mental illness pose a danger to themselves and to others within the institution, both staff and fellow inmates. If we put them back on the street without treating them, we are not

fulfilling our obligation to society. We are not meeting the needs of rehabilitation and reintegration. We are endangering public safety and we are vastly increasing the chances that they will reoffend.

The observation on mental health urges the Correctional Service of Canada to explore alternative service delivery options, and it cites the example of Ontario's St. Lawrence Valley Correctional and Treatment Centre as a type of facility that should be considered.

I was the Corrections Minister in Ontario when that facility was conceived and built nearly a decade ago. It remains unique as a facility in which Corrections supplies security and the Royal Ottawa Health Care Group looks after treatment. The ratio of staff, about 80 per cent clinical and 20 per cent corrections, is exactly the opposite of what occurs in Corrections Canada treatment centres, if they can find staff. The results are clear. As forensic psychiatrist Dr. John Bradford told our committee last week, that facility has reduced the rate of recidivism by 40 per cent.

Later this year, the inquest into the death of Ashley Smith, a 19-year-old who committed suicide while incarcerated in a federal institution, will shine a bright and harshly negative light on how the correctional system is failing to meet the challenges posed by mentally ill inmates, particularly women. As the committee states in its observation, "there can be no postponement of action on this critical issue." We hope Correctional Services' leadership is listening.

I would like to talk about some other parts of Bill C-10, particularly those elements that have generated the most controversy and, in my view, have been most distorted by critics.

We have heard a lot of talk about the cost to the provinces of implementing this bill. That is fair enough, but it is important to remember that many of the provinces asked for measures in this bill. In response to concerns about implementation, federal ministers, at the recent federal-provincial-territorial justice ministers meeting, agreed to take into consideration the views of the provinces when determining when the various provisions of Bill C-10 will come into force.

Within five years, there will be a comprehensive review of the Controlled Drugs and Substances Act, including a cost-benefit analysis of mandatory minimum sentences. It is right there in clause 42 of the bill, a clause that has received little notice.

Honourable senators, when we talk about the cost of law enforcement and justice, we should also talk about the cost of crime. According to a recent Justice Department study, it was a staggering \$99.6 billion in 2008. That did not incorporate a number of other elements. The Justice study indicates that, in reality, it is well over \$100 billion in 2008.

We heard from several witnesses that this bill, without an exemption from mandatory minimum sentences, will result in the mass incarceration of Aboriginal Canadians. They argued that these mandatory minimums are inconsistent with section 718.2 of the Criminal Code, which requires that reasonable alternatives

to incarceration should be considered with particular attention to circumstances of Aboriginal offenders, the so-called *Gladue* principle.

Honourable senators, we should not forget what kind of offences we are talking about here. The mandatory minimums in Bill C-10 are for drug trafficking and sexual offences against children — serious offences. The Supreme Court in *R v. Wells*, 2000, said that, generally, Aboriginal and non-Aboriginal offenders who commit violent and serious offences are likely to receive similar terms of imprisonment.

We must also remember that mandatory minimums and section 718.2 coexist in the Criminal Code as it now stands. When the former Liberal government instituted mandatory minimums for child sexual offences in 2005, it did not exempt Aboriginal offenders.

Lastly, it is important to note that Aboriginal people are also overrepresented in the criminal justice system as victims, and Bill C-10 will help all victims.

I said at second reading that the least credible argument against Bill C-10 is that it amounts to the Americanization of the Canadian justice system. I noted that minimum sentences in the U.S. are several times longer than what is proposed in Bill C-10, and the Canadian incarceration rate is about one-seventh that of the United States.

Criminologist John Martin of the University of the Fraser Valley told our committee on February 23 that this criticism is both “reckless” and “irresponsible.” He noted that a mega-prison like Folsom in California has 4,500 inmates, compared to institutions of 300 or so in Canada, institutions that may be expanded by a few dozen beds if necessary as a result of the safe streets and communities act — no mega-prisons, no U.S.-style sentences, no comparison.

We have also heard a lot about Bill C-10’s reforms to the Youth Criminal Justice Act. The critics say that there is no need to change the act, that it is working well and that these changes will result in many more young people going to jail.

Honourable senators, nothing could be further from the truth.

The changes in Bill C-10 will provide more judicial discretion to judges when it comes to pre-trial custody, sentences of incarceration and in publication of names in cases where public safety is at risk. They allow judges to once again take into consideration denunciation and specific deterrence. Most of the changes in this section of Bill C-10 are intended for that very small percentage, 3 to 5 per cent, we are told, of young offenders who are out of control and pose a significant risk to society.

The Youth Criminal Justice Act, as constituted, does not give judges the tools they need to deal with these offenders. We heard that in the Nunn commission report. Senator Cowan was referencing Justice Nunn, and that was one of his key recommendations with respect to changes to the YCJA.

The committee heard an example on February 22 from Detective Stephen Nevill of the Toronto Police Service, an

example that illustrates how the system works or, perhaps more accurately, fails to work. This is an actual case from the youth court on Jarvis Street of a 16-year-old male convicted of robbery, threatening bodily harm and possession of property obtained by crime. All those charges were withdrawn when he completed extrajudicial sanctions. He was then charged and convicted of obstructing a police officer, failing to comply with a recognizance, and that means he was out on bail at the time, released by the courts, committed another offence that breached the conditions and was convicted. He received a \$1 fine. He was then convicted of another breach of bail conditions and again received another \$1 fine. That youth is currently facing numerous new charges, including breach of recognizance, possession of marijuana, failure to comply with his youth probation, robbery, using an imitation firearm —

The Hon. the Speaker *pro tempore*: Honourable Senator Runciman, I regret to inform you that your time for speaking has expired.

Senator Fraser: Five minutes.

The Hon. the Speaker *pro tempore*: There is a list of other honourable senators who wish to speak. What is the wish of the house? Shall he be given five more minutes?

Hon. Senators: Agreed.

Senator Runciman: Thank you.

In any event, I will move on. I find it hard to believe that anyone could look at a case like that raised by Detective Nevill and believe the system is working well. The reforms to the youth act will help the courts deal more appropriately with this type of case involving violent and repeat young offenders.

I would like to conclude by talking about the section of Bill C-10 that has generated by far the greatest number of letters, calls and emails. That is, the measures that are subject to the greatest confusion and deliberate distortion, I believe, the amendments to the Controlled Drugs and Substances Act.

• (1900)

There is a real misunderstanding of who this bill targets and about the state of the drug trade in Canada. This bill is aimed squarely at drug dealers and for a very good reason: Drug crime is increasing in Canada. We have become a global supplier of synthetic drugs. If you do not believe me, read the UN report released this week, the *Report of the International Narcotics Control Board for 2011*, which confirms this sad fact. Police seizures of ecstasy destined for the United States have doubled from 2007 to 2008.

Even as our committee was considering this bill, the RCMP made a huge seizure in Toronto of a controlled chemical used to make the date rape drug GHB, enough of the chemical to produce up to 4.8 million doses of the date rape drug, which is worth about \$48 million on the street. Smuggled from China, it was destined for an organized crime lab to be cooked and sold on the streets, most of it exported.

This was a large seizure, but far from unique. According to Statistics Canada, there were 2,190 cases of production, importation or exportation of illegal drugs in 1990 and around 35,000 in 2010. Organized crime controls the marijuana trade in Canada; they have turned it into a multi-billion dollar crime industry. One of the reasons this has occurred is that there are modest, if any, consequences, particularly in certain parts of the country.

RCMP Superintendent Eric Slinn told our committee that a few years ago marijuana growers in Nova Scotia, afraid of getting federal time, would have their charges transferred to British Columbia because they knew they would receive a conditional sentence there. This has had a significant impact on the growth of the industry. The average size of a marijuana grow operation in the Cariboo Region of British Columbia has grown to almost 1,000 plants — three times larger than in the 1990s.

Only 11 per cent of the cases coming to the attention of the police result in charges. Professor Plecas, who appeared before us from British Columbia, said it is very clear the kinds of sentences our courts have handed out have not come close to having the ability to rehabilitate; they have not been able to deter and have absolutely not provided for public safety.

Finally, I would like to touch on one point, a matter raised repeatedly by my friend Senator Baker, the famous case of someone with a previous drug conviction who happens to hand someone a single pill and ends up getting a year in jail for trafficking. Law enforcement repeatedly told the committee this is not the sort of case they focus on, but it is important to remember a powerful example we heard from the superintendent. It was the case of a girl who died after taking a single ecstasy pill at a rave. It is not an isolated event; there have been ten recent deaths in Southern Alberta alone and five in British Columbia linked to taking ecstasy pills laced with a toxic drug. Superintendent Slinn said about that case:

A \$10 value was put on this young girl's life. She was an aspiring model, a beautiful girl. Organized crime cares nothing about all of our children and our grandchildren. They will exploit anything. We need as many tools as we can have to discourage them and hold them accountable.

I think after hearing that example, it would be difficult to have sympathy for Senator Baker's hypothetical one pill repeat drug trafficker.

Honourable senators, Bill C-10 will not solve the crime problem in Canada, but it gives police and courts the tools they need to deal more effectively with certain offences. I might add that these offences are on the increase in this country. The government committed to enacting these measures, the public endorsed that commitment and we are acting. When this bill comes to a vote, I urge all honourable senators to support the Safe Streets and Communities Bill.

Hon. Joan Fraser: Honourable senators, I want to say at the outset that there are some good things in Bill C-10. Let me start by mentioning the Justice for Victims of Terrorism Act. I wish that this were in fact a free-standing bill because I would like very

much to be able to vote for it, as I have done in the past. Unfortunately, it has been bundled into a bill which contains a great many other items. Some of them are also good.

The recognition of young offenders' diminished blameworthiness or culpability is a very important principle. Probably the sexual offences against children, although we did not examine the fine detail, but the notion of those sexual offences is certainly good.

It is very good to have Senator Runciman's favourite subject of mental health recognized as a principle that the correctional service must take into account when dealing with offenders. I want to pay tribute to Senator Runciman for his dedication, tenacity and expertise in this field, not only on this bill, but on previous bills. I also want to pay tribute to the chair for bringing us to a consensus on what I believe are excellent observations.

However, too many elements of this bill are bad. Some of them are just plain mean-spirited or nasty. On that list, my number one item for the very nastiest element of this bill would be the provision that young offenders may have the publication bans on their identities lifted when they are as young as 12 years old. We know from expert testimony that publication of young people's names can have a devastating life-long impact, as well as an immediate impact. The stigmatization that results can do serious damage to their chances of rehabilitation, yet a young offender, a 12-year-old, is in many cases, probably most, though not all, capable of rehabilitation and capable of growing up to be a fully functioning, participating, positive member of our society. Why would we do this? There are so many other bad or dubious things, and I must say that the government has assiduously cultivated a number of myths about this bill, all false. Let me address some of these myths.

First, that this bill will only affect major or violent criminals and recidivists — if only that were true. On drugs, for example, the Minister of Justice, Mr. Nicholson, says the bill will go after the big, bad people, those who are — and I am quoting him here — “in the business of trafficking.” We all want the law to come down very hard on the big, bad, serious people who are in the business of drug trafficking. They are bad people, and we do not want to let them off lightly.

However, testimony from experts in Mr. Nicholson's own department confirmed that this bill, as written, will also capture “quite small people” and subject them to mandatory minimum sentences of imprisonment.

Looking at conditional sentences, this bill dramatically limits the number of conditional sentences that will be available to offenders. Conditional sentences, honourable senators, are only granted now on very strict conditions. Most notably, they are only granted for sentences of less than two years. First, the judge decides that this offender gets a two-year sentence, and then the judge may decide, if all the other careful conditions are suitable, that a conditional sentence — serving the sentence in the community, perhaps at home, perhaps elsewhere — is reasonable. The bill's new rules may, in some cases, be justifiable. I can see why one would abolish conditional sentences for kidnapping, for example, but some are not so justifiable.

Saying there shall never be a conditional sentence for being unlawfully in a dwelling house strikes me as going a step too far, similarly, eliminating all conditional sentences for car theft. We know that some car thieves are major-league international criminals, but some are just young chaps going out on a joy ride. My own car was stolen a few years ago by a young chap going out on a joy ride. I got it back. I do not think that person deserved to go to prison, although a bit of community service might not have been a bad idea.

The paradoxical effect of the new rules on conditional sentences is that, as a number of witnesses told us, we will end up spending more, much more, while simultaneously we will subject these offenders in many cases to significantly less correctional supervision. The Parliamentary Budget Officer says the average time spent under supervision in Bill C-10 drops from 348 days to 225 days, but the cost will go up from \$2,575 per offender to \$41,000 per offender. It strikes me as really wrong-headed.

• (1910)

Myth number two: We need this bill because the system now is too soft on crime, and judges, in particular, are too soft.

In fact, Canada has one of the developed world's higher rates of incarceration now; all those sentences have been imposed by judges, and our incarceration rate will only rise when this bill comes into force.

It is kind of funny. The government does not like giving discretion to judges, who are the people who are best placed to gauge the facts and context of individual crimes. The government, therefore, refuses the kind of safety valves that Senator Cowan referred to that could apply only to exceptional circumstances. However, the government does like giving discretion to everyone else. It likes giving discretion to itself. For example, in the international transfer of offenders provisions, a page of criteria is set out that will apply if, in the minister's opinion, such and such is true. That sounds pretty discretionary to me.

This bill gives the government the power to pass an order-in-council to increase the number of offences for which no pardon may be granted.

It sets up a whole system for vulnerable foreign workers where the criteria will be established by simple government instruction rather than by regulation, which is a much more formal public consultative process.

It gives, as Senator Cowan said, discretion to Crown prosecutors. We know there will be more plea bargaining. We tend to forget that there will also be more cases that are just not pursued because the courts are jammed and there are not enough crown prosecutors or other court staff to do it. Jamie Chaffe of the Canadian Association of Crown Counsel told our committee that there are already significant portions of the Criminal Code they are not able to enforce in certain jurisdictions. He stated:

What we have right now is a situation where some provinces will enforce, some will not. That is a serious rule of law issue and it will have to be addressed across the table between federal and provincial counterparts.

The police, as we have heard, get discretion under this bill. Will they or will they not charge people with six marijuana plants? Will they or will they not charge a whole raft of other people? They are also already overburdened, and they will be more so when this bill comes into effect. Something has to give somewhere. They will exercise more discretion.

The correctional service is given quite a wide degree of discretion in quite a number of circumstances here. Particularly worrisome is that under this bill we abandon the long-standing provision that the correctional service shall use the least restrictive measures necessary when dealing with offenders, and, instead, they will use measures that the correctional service deems to be necessary and proportionate. That is more serious than it sounds, colleagues.

Howard Sapers, the Correctional Investigator, said that removing the language of "least restrictive" is akin to removing a load-bearing wall from a structure.

Michael Jackson, an extremely eminent lawyer, who has pleaded numerous cases before the Supreme Court, among other things, explained:

That least restrictive principle is not fashioned out of thin air. It is not just words that sound good, least restrictive measure. It follows from the Supreme Court of Canada's decision in the *Oakes* case.

That case is an absolute pillar of the way in which our courts apply Canada's Charter of Rights and Freedoms.

He went on:

It is a constitutional restriction or reflection of the principle of restraint on official state authority . . . That provision is one of the golden rules, as Mr. Sapers has referred to it. It is a fundamental principle underlying the CCRA.

It will be gone. Instead, prison officials will get to decide not what is the least restrictive measure, which is justifiable under the Constitution, but what they think is necessary and appropriate.

Myth number three: This bill will make Canada safer. In fact, as Senator Cowan so well explained, all the expert evidence shows that the opposite is true. Yes, some people need to be locked up, and some need to be locked up for a long time, but what most need, if we are to avoid recidivism when they get out — and they will almost all get out — is treatment, whether in the community or in prison. However, fewer people will be diverted to community-based treatment and supervision because of the mandatory minimums and because conditional sentences will become less available. This will, as we have heard, be particularly devastating for Aboriginal people because they are the ones who have benefited most from the trend in recent years to turn to restorative justice, which is in conformity with Aboriginal practices and culture and the way in which they have handled offenders for thousands of years.

It might be acceptable to go this route if the prisons took on the job of treatment, but that is not actually happening. You heard Senator Cowan give the devastating statistics about the numbers

of people who actually are getting core programming in prisons right now, compared to the waiting lists. Mr. Sapers, the Correctional Investigator, in his most recent annual report also discussed the new program model that the correctional services appear to be rolling out across the country. He said there are concerns regarding its emphasis on reducing or collapsing a number of previously separate programs, for example, substance abuse, violence prevention or anger management, into a one-size-fits all intervention. Mr. Sapers stated:

These “efficiencies” follow an earlier move that eliminated low intensity sex offender programming across the Service. Furthermore . . . time spent in programming is dramatically reduced — in some cases, by a factor of three.

I defy anyone to think that the prisons will be able to provide the necessary treatment and rehabilitative programming that offenders need if our streets are, in fact, to be safer. The fact is our prisons are already being swamped. Nearly 16 per cent of our prisoners are double-bunked; too many are triple-bunked, even though international norms, to which we are supposedly subscribers, say single-bunking is the only way to go. Correctional services are hiring staff frantically, but not for programming.

Myth number four: The costs of all of this tough-on-crime stuff will be small and are, in any case, irrelevant. We all know the Parliamentary Budget Officer begs to differ on that. Also bear in mind the impact on the provinces and territories, which will be much larger because that is where the vast bulk of Canadian prisoners are.

We have heard about the expressions of concern from Nunavut, Ontario and Quebec. In Ontario, they expect some facilities to operate at 150 per cent capacity. You should know, honourable senators, that in the United States, which, as we know, is not soft on crime, courts have found that for a prison to operate at 137.5 per cent of capacity constitutes cruel and unusual punishment, but we will be going to 150 per cent.

Think about the smaller provinces. In Prince Edward Island, which Senator Cowan mentioned, under the bills that have already been passed, the demand for adult custodial beds — this information is from the government of Prince Edward Island — has been increasing by almost 15 per cent per quarter. That is a 15 per cent per quarter increase in their inmate population due, in large measure, to recent amendments to federal legislation and a change in their client profile.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted for an additional five minutes?

Hon. Senators: Agreed.

Senator Fraser: All those conditional sentences that will no longer be available will, as I suggested earlier, have a direct impact in very large measure on the provincial institutions.

• (1920)

Let me finally talk about the cruelest myth of all, which Senator Cowan also mentioned. The cruelest myth propagated by the government is that this bill will help victims. It will give victims a slightly greater voice in some circumstances, but it will do nothing else for them.

A witness for the Canadian Bar Association told us:

If resources are not coming, I can certainly tell you that victims will not be happy when cases are thrown out for delay. . . . The reality is that the system will not sustain this piece of legislation. . . . On the ground, the resources are not there to implement the legislation and, at that point in time, you are putting false expectations on victims, which is not fair.

Nothing in this bill will help to guide victims through the maze of the system that fails them now and will continue to fail them.

I would finally say that it is not true that all victims support this bill. Honourable senators have all received, but I do not know if they have all read, a letter from Mr. Matthew Cook of Victoria, B.C. Three years ago, his family had an intruder in their home — a young man who was intoxicated. He took a kitchen knife and he stabbed Mr. Cook's wife, opening an artery and severing a nerve cluster. Mrs. Cook has a permanent disability and they have suffered enormous financial disadvantage as a result of this event.

Mr. Cook wrote:

. . . I have since been employed at a Community Residence Facility under the Salvation Army, a halfway house for men who are on parole. As such I believe I have special insight into our criminal justice system having seen it through the eyes of the victim as well as one who, as part of the system, has built relationships with men who have committed offences similar to what I have described to you. . .

Mr. Cook opposes mandatory minimum sentences because they will only immerse first-time offenders even more into criminal culture. He says:

. . . I have seen that it is those associations that are formed in prison that ultimately derail the good intentions of a parolee, and that more time in prison will only strengthen those ties.

He ends his letter with what his wife said to her attacker as part of her victim impact statement:

I hope your time in prison will be one of growth and fruitful soul searching.

Mr. Cook says:

Is that not what we have penitentiaries for — to give men the opportunity that they may repent and return to us as healed individuals? Should not this be the ideal that our country aspires to? I do not see these ideals represented in Bill C-10. I see it costing us more, both fiscally and morally. I implore you, as our sober second thought, let it not pass.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, it is a great honour for me to rise today, as Leader of the Government in the Senate, to speak to Bill C-10, the Safe Streets and Communities Act.

On May 2, 2011, Canadians handed a clear and resounding mandate to Prime Minister Harper and the Conservative Party of Canada. They voted resoundingly in favour of a majority Conservative government committed, among other issues, to protecting society and holding criminals accountable for their actions. As many honourable senators in this chamber are well aware, Bill C-10 fulfills our government's commitment in the June 2011 Speech from the Throne to introduce important legislation to keep Canadians safe from crime and terrorism.

As we have heard previously in the House of Commons, as well as here in the Senate, our government bundled together nine critical crime bills that were on the Order Paper at various stages in the last Parliament. We all know what happened. The Official Opposition — the Liberal Party at the time — joined other opposition parties to defeat our government 11 months ago. Canadians took note and elected a majority Conservative government as a result. Bill C-10 is a comprehensive piece of legislation, bringing all of these elements together and it responds to the concerns of Canadians.

Canadians want to feel safe in their own communities. We must see to it that they are. We, as Canadians, want to be able to raise our children without worrying about criminals roaming our neighbourhoods and streets. We want to and must put an end to drug dealers trafficking dangerous and harmful drugs near our schools and playgrounds. We insist that we not be placed in a situation where we are confronted with sexual predators prowling around, many out on early release.

This bill goes a long way in creating a condition where Canadians will feel safer in their communities.

Honourable senators, I wish to pay special tribute to my colleague, Senator Boisvenu, and other advocates for victims of crime who have repeatedly urged the opposition to understand the critical importance of having this bill passed expeditiously so that our government can keep its commitments to Canadians. Everyone knew and understood what we were saying in the election campaign — and before — and what we promised to do.

Highly-respected people such as Joe Wamback, Sharon Rosenfeldt, and Sheldon Kennedy have spoken out on many occasions about the need for changes to our justice system and our public safety laws. They have been strong advocates for this bill who have encouraged its timely passing. Who better to understand the pain and anguish of victims than Senator Boisvenu, Joe Wamback, Sharon Rosenfeldt, and Sheldon Kennedy?

I think of my friend Sharon, her son a victim of Clifford Olson. How she kept her sanity and dignity through her long ordeal is something I cannot comprehend. Consider Senator Boisvenu. Who among us would ever wish to walk in his shoes? We owe them all a profound debt of gratitude for their tireless and selfless work on behalf of victims of crime.

Some Hon. Senators: Hear, hear.

Senator LeBreton: In the Senate, as voices for Canadians of all demographics, from coast to coast to coast, we have a duty to stand up for victims of crime, to protect Canadians and to do what is necessary to build a stronger, safer and better Canada. This comprehensive legislation is another important step in the process to achieve this end.

All honourable senators in this place have likely heard feedback from their communities about this bill. Indeed, I have heard many sentiments in my own community of Manotick, just south of Ottawa. I have heard from people across the country as well. The message of Canadians has been loud and clear. They are saying to us, "Please ensure a safer community for our families." They are relying on us, their government and all parliamentarians, to take steps needed to achieve this.

I will now briefly address the content of the bill and explain the five parts that comprise Bill C-10. Part 1 includes reforms to deter terrorism by supporting victims of terrorism and amending the State Immunity Act. Part 2 includes sentencing reforms that will target sexual offences against children, and serious drug offenders, as well as prevent the use of conditional sentences for serious, violent and property crimes. Part 3 includes post-sentencing reforms to increase offender accountability, eliminate pardons for serious crimes and strengthen the international transfer of offenders regime. Part 4 includes reforms to better protect Canadians from violent and repeat young offenders. Finally, Part 5 includes immigration reforms to better protect vulnerable foreign workers against abuse and exploitation, including human trafficking.

Although there have been criticisms of this bill being complicated and difficult to understand, I would like to remind honourable senators that these reforms are not new and certainly not unfamiliar to both houses of Parliament. They are certainly not new to Canadians. These reforms, as I stated earlier, were all before Parliament previously, before they died on the Order Paper with the dissolution of the previous Parliament.

• (1930)

I would also like to remind my honourable colleagues that many of the initiatives included in this bill have been debated, studied, and even passed at least one or two times by both chambers at different stages of the bill.

They are hardly new and they are hardly unfamiliar. Largely, the comprehensive legislation reintroduces crucial reforms to our justice system in the exact same form they were in previously, with technical changes that were needed to be able to incorporate them into this now one bill before Parliament, C-10.

In an effort to ensure all members of this chamber are fluent in their understanding of this bill, I will take this opportunity to walk you through various parts of the bill, particularly those that have been misunderstood, misreported and, quite frankly, the subject of what I would say is deliberate confusion.

Part 1 amendments seek to deter terrorism by enacting the proposed Justice for Victims of Terrorism Act. These reforms recognize that "terrorism is a matter of national concern that

affects the security of our country,” and that it is a “priority to deter and prevent acts of terrorism against Canada and Canadians.”

The real and imminent threat of terrorism remains constant for countries like Canada and the United States — indeed, any country in the free world — and we must always continue to be vigilant. That is why Part 1 proposes to enable victims of terrorism to sue perpetrators and supporters of terrorism, including listed foreign states, for loss or damage that occurred as a result of an act of terrorism or omission committed anywhere in the world on or after January 1, 1985.

We must do this in honour of the victims of terrorist attacks such as 9/11 and acknowledge the pain and suffering of the loved ones left behind, like Maureen Basnicki, who I think is in the gallery with us today.

The bill also would amend the State Immunity Act to lift immunity of those states that have been listed as supporters of terrorism.

Honourable senators will remember that amendments contained in Part 1 of Bill C-10 were previously proposed and passed by this chamber in former Bill S-7, the justice for victims of terrorism bill, in the previous session of Parliament. Our colleague Senator Dave Tkachuk is to be thanked for his pursuit of these important measures.

Part 2 proposes important amendments to the Criminal Code and the Controlled Drugs and Substances Act to ensure that severe and violent crimes like child sexual exploitation and serious drug offences receive sentences that effectively reflect the severity of the crimes.

This part of the bill includes former Bill S-10, the penalties for organized drug crime bill. As honourable senators will recall from the previous Parliament, it proposes to amend the Controlled Drugs and Substances Act to impose mandatory penalties for the offences of production, trafficking, possession for the purpose of trafficking, importing and exporting, or possession for the purpose of exporting a Schedule I drug, such as heroin, cocaine and methamphetamine, and Schedule II drugs such as marijuana.

These mandatory minimum sentences would apply where there is an aggravating factor, including where the production of the drug constituted a potential security, health or safety hazard, or if the offence was committed in or near a school.

Additionally, this bill would double the maximum penalty for the production of Schedule II drugs like marijuana from 7 to 14 years and it would reschedule drugs most commonly known as the date rape drugs, from Schedule III up to Schedule I.

For context, Schedule III drugs include various drugs to treat attention deficit disorders like Adderall and Ritalin. Also included in Schedule III are some species of psychedelic mushrooms, unlike Schedule I drugs, which include heroin, methamphetamines, cocaine and PCP.

As a result, these offences will now carry higher maximum penalties, helping to keep Canadians safe by keeping criminals off of our streets and out of our communities for a longer period of time, as well as acting as a deterrent — and I think we overlook this fact, honourable senators; these penalties do act as a deterrent and there is evidence to prove it — for other would-be criminals.

This part of Bill C-10 would also allow a court to delay sentencing while a drug-addicted offender completes a treatment program under the supervision of the court and, if the offender successfully completes the program, it allows the court to impose a penalty other than the minimum sentence.

I am going to repeat that, because this is something that they always overlook. This part of Bill C-10 would allow a court to delay sentencing while a drug-addicted offender completes a treatment program under the supervision of the court and, if the offender successfully completes the program, it allows the court to impose a penalty other than the minimum sentence. It is important that we all understand that.

Our government is committed to keeping our communities safe, while also allowing offenders an opportunity to avail themselves of drug treatment programs, and thereby improving their lives and, hopefully, contributing to society. The myth Senator Fraser speaks of really is that this government or anyone in society would not do everything possible to try to treat people who are hooked on drugs, and to suggest that we would do anything other than try to help these people is false.

The inclusion of these measures in Bill C-10 means that this is the fourth time the bill has been introduced.

Coincidentally, these important measures have been passed by both chambers, but never by both in the same session of Parliament. This bill is identical to the bill that died on the Order Paper at the dissolution of the last Parliament.

As others have said, we have all received the mass emails, but I say and you must acknowledge that a significant number of these were exactly the same text; the only thing that was changed was the name. It is the easiest thing in the world to do. You do not even have to think about the letter you are writing; just pop your name on it.

There are others, of course, who have written. Of course, we responded to these legitimate concerns, but these people who have emailed us and emailed us with these form letters are of the opinion that serious drug offences do not require a response such as that contained in this comprehensive bill. I fervently disagree with these views, as do many experts. In fact, statistics back this up.

Serious drug crime is a severe problem in Canada and it requires serious legislative approaches. That is what we are doing. This is why we are bringing this bill forward.

For example, marijuana cultivation offences have increased significantly in the past several years. As well, available RCMP data indicates a rise in synthetic drug production operations in the last 10 years. The RCMP indicates that there were 25 clandestine labs seized in 2002. In 2008, 43 clandestine labs were seized across

Canada. One year later, another 45 clandestine labs were seized by various Canadian police agencies. The majority of these labs seized were methamphetamine and ecstasy labs. We only have to read newspapers, especially in Alberta, to see the deadly results of the products of these labs. These are dangerous drugs that have led to the deaths of many Canadians, particularly young Canadians — our children.

Prime Minister Harper — and honourable senators may recall this, I am sure, because I know we all watch Prime Minister Harper very closely — unveiled Canada's National Anti-Drug Strategy in October 2007. This strategy provided new resources to prevent illegal drug use, including illicit drug use by young people. It also provided a plan to treat people who have drug addictions and, of course, there was an element to fight organized crime and illegal drug crime.

• (1940)

The strategy comprises a two-pronged approach, one that will be tough on drug crime and the other that will focus on drug users. The strategy includes three action plans: preventing illicit drug use, treating those with illicit drug dependencies, and combating the production and distribution of illicit drugs.

Sadly, because domestic operations related to the production and distribution of marijuana and synthetic drugs have dramatically increased, we have a serious problem in this country. It is more prevalent in some regions of Canada over others. The situation has reached a critical point in many parts of country, and law enforcement agencies are, quite frankly, overwhelmed. As we have all heard before, penalties for drug-related offences and the sentences imposed on offenders are considered by many, including our government, to be far too lenient and not proportionate to the significant level of harm imposed on Canadian communities by these actions. The reforms that our government is pursuing in Bill C-10 will address these concerns.

Part 2 of Bill C-10 includes reforms previously proposed by the former Bill C-16, the Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Bill. The reform set out in this bill, Bill C-16, explicitly stated that conditional sentences will not be an option for offences punishable by a maximum of 14 years to life; offences prosecuted by indictment and punishable by a maximum penalty of 10 years that result in bodily harm, involve the import and/or export, trafficking and production of drugs or involve the use of a weapon; or the listed property and violent offences punishable by 10 years and prosecuted by indictment, such as criminal harassment, trafficking in persons and theft over \$5,000.

Our colleagues in the other place will recall clearly that this is the third time these reforms have been introduced by our government. On each prior occasion, the House of Commons approved the legislation at second reading in principle and in scope.

I wish to point out that there have been a few new technical changes made to the list of excluded offences punishable by the maximum of 10 years. The recently enacted new offence of motor vehicle theft will now be included, and to coordinate the proposed

imposition of the mandatory sentence of imprisonment in proposed section 172.1 the luring of a child, with the conditional sentences amendments.

An important segment of Part 2 of Bill C-10 seeks to impose new and higher mandatory minimum penalties for all forms of child sexual abuse, as previously introduced as part of Bill C-54. I am quite certain all members of this chamber can unanimously agree on the critical importance of this measure of the bill. Several of our Senate committees have heard from victims of sexual abuse in a variety of studies. It is clear that sexual abuse, unfortunately, affects the lives of so many Canadians — too many Canadians — and too many have had to live their entire life with the consequences. We have heard the high-profile stories of Sheldon Kennedy and Theo Fleury, and through the good work of some of our committees, we have heard the stories of children from coast to coast to coast who have been subjected to cruel and unspeakable acts.

In addition to the new and higher mandatory minimum penalties, the reforms set out in Part 2 of this bill would create two new offences that will aid in the prevention of the commission of sexual offences against children. As a mother and grandmother, I am incredibly proud that our government sees this as an important, urgent issue and seeks to require the courts to consider imposing conditions to prevent suspected or convicted child sex offenders from engaging in conduct that could facilitate or further a sexual offence against a child.

Bill C-54 had previously received all-party support in the House of Commons.

Honourable senators, you will recall that the bill reached third reading debate here in the Senate before it died on the Order Paper after opposition parties forced an unnecessary and quite costly election, costly to them in more ways than one.

I know that my Conservative government colleagues were all very disappointed. I remember how disappointed we were that the bill died, because it should have passed. It should be law right now because it was critically important that these reforms to protect our children be in place, but now we have a chance again to make sure this happens.

Our government has made some changes since that bill died on the Order Paper, as you know, including increasing the maximum penalties with a corresponding increase in mandatory minimum sentences to better reflect the nature of the offence. We have also amended the bill to include the making of or distribution of child pornography, and also to extend this provision to a parent or guardian who procures his or her child for unlawful sexual activity. The changes we have made to this bill are in line with our objectives in the former Bill C-54.

Additionally, the new two sexual offences proposed would be added to Schedule 1 of the Criminal Records Act to ensure that those convicted of either offence are subject to the same period of ineligibility for a record suspension — currently referred to as a pardon — as they are for other child sexual offences. This is crucial. I am sure my honourable colleagues will agree that the crime of sexual exploitation of young children is a most heinous crime, one that is inconceivable, and a crime that most certainly must be met with the appropriate punishment.

These reforms in Bill C-10 seek to consistently and adequately condemn all forms of child sexual abuse through the imposition of new and higher mandatory sentences of imprisonment, as well as some higher maximum penalties.

We are also addressing the serious issue of drug crimes in this country, particularly those involving organized crime and those that target youth, because we all know the impact these crimes have on our communities.

I would like to now move on to Part 3 of Bill C-10.

This section of the bill proposes post-sentencing reforms to better support victims of crime, as well as to address the issue of offender accountability. I heard Senator Fraser's comments about victims and saying that this was the saddest part of this bill. The saddest part of this debate, Senator Fraser, is that you would think that victims would not want everything possible done to deal with the perpetrators of these horrendous acts. We, as a government, have acknowledged and done more for victims than any other government in the history of the country.

It is clear. I have heard many times in my discussions with Canadians, and I know that my colleagues on the government side of both houses of Parliament have as well. They know when we talk about costs, there is no cost that is too great to deal with criminals. The cost to victims and the cost to society are what is paramount. The cost of incarcerating people pales by comparison.

Canadians are offended when offenders get a slap on the wrist and a trip to "Club Fed." They want to have complete confidence in our justice system. In order for this to happen, offenders must be held accountable.

As with Parts 1 and 2, Part 3 introduces reforms previously contained in bills that were at one time before the previous Parliament. All of this is nothing new. We have been talking about this for six years. They did not talk about it much before that, mind you.

In Part 3 of Bill C-10 we have included proposals from the Ending Early Release for Criminals and Increasing Offender Accountability Bill that would amend the Corrections and Conditional Release Act to recognize the rights of victims, increase offender accountability and responsibility, and modernize the disciplinary system for inmates. We have been very clear. Our government is committed to standing up for Canadians and, most importantly, victims of crime. We believe criminals must be accountable and responsible for their crimes. I think all Canadians share the belief that, in order to deter crime, there must be consequences in the form of appropriate and reasonable sentences.

• (1950)

This bill would address the disrespectful, intimidating or assaultive behaviour of inmates inside Canada's penal institutions, including the throwing of bodily substances. It would also restrict visits for inmates who have been segregated for serious disciplinary offences. As my colleague the Honourable Vic Toews has said previously, our front-line correctional officers have asked for these measures and we are very proud to deliver them.

I am proud also that our government has committed to transforming our corrections system to ensure that it actually corrects and does not become a home away from home for offenders who have victimized others. As many honourable senators already know, our government has taken major steps to address the recommendations contained in *A Roadmap to Strengthening Public Safety*. Bill C-10, now before us here in the Senate at third reading, continues this vital work.

As re-introduced as part of Bill C-10, this initiative now includes technical modifications that would delete provisions that were ultimately passed as part of the Abolition of Early Parole Act and, in addition, clarifications regarding, for example, sentence calculations, adding new offences recently enacted by other legislation, and a proposal to change the name of the National Parole Board to the Parole Board of Canada.

Our comprehensive crime bill also includes proposals previously contained in Bill C-5, the Keeping Canadians Safe (International Transfer of Offenders) Bill. These proposals would enhance the safety of all Canadians by enshrining in law a number of additional key factors in deciding whether or not an offender would be granted a transfer back to Canada. The bill proposes these reforms as originally introduced.

Also reintroduced as part of Bill C-10 are proposals that were included in the Eliminating Pardons for Serious Crimes Bill introduced in the previous Parliament. This provision would expand the period of ineligibility for a record suspension, currently referred to as a pardon — a misnomer if I ever heard one — and would ultimately make record suspensions unavailable for certain offences and for persons who have been convicted of more than three offences, prosecuted by indictment, and for each of which the individual received a sentence of two years or more. This bill corrects inconsistencies that occurred in the former bills before Parliament but are consistent with the government's objectives.

One of the areas of criminal law and our justice system that is close to the heart of many Canadians, including myself, is the serious issue of violent and repeat young offenders. My colleague the Honourable Rob Nicholson, Minister of Justice, has stated on numerous occasions that he has received a great deal of communication from Canadians on this matter, and I can attest that my office continues to receive such correspondence as well. This is one area that I hear a lot about.

Part 4 of Bill C-10 would reform the Youth Criminal Justice Act to strengthen its handling of violent and repeat offenders. This has been a long time coming. Canadians have called for these changes for years. Our government is delivering on our promise to Canadians. We heard this message loud and clear last May 2, and we take our responsibility to keep communities safe very seriously. I encourage my opposition colleagues to do the same.

The reforms we are proposing include: highlighting the protection of the public as a principle, making it easier to detain youth charged with serious offences pending trial; ensuring that prosecutors consider seeking adult sentences for the most serious offences; prohibiting youth under the age of 18 from serving a sentence in an adult facility, which is another falsehood that keeps surfacing; and requiring police to keep records of extrajudicial measures.

Many of my honourable colleagues here in the Senate of Canada may remember that these much-needed reforms were previously proposed in Sébastien's Law, which had been extensively studied by the House of Commons Standing Committee on Justice and Human Rights when, sadly, it died on the Order Paper with the dissolution of the previous Parliament. The provinces have highlighted concerns regarding pretrial adult sentencing and deferred custody provisions in the former bill. This new re-introduction addresses the concerns the provinces brought to us.

For example, a number of the provinces have requested a less restrictive regime for the pretrial detention provisions than that of the former Bill C-4. The changes found in this bill respond by providing more flexibility to detain youth who are spiraling out of control and who pose a risk to the public and to themselves.

Other changes are of a more technical nature; for example, removing Bill C-4's proposed amendments in two areas: first, deleting reference to the standard of proof for an adult sentence and, second, the expanded scope of deferred custody and supervision orders.

Finally, Part 5 of Bill C-10 would amend the Immigration and Refugee Protection Act to authorize immigration officers to refuse work permits to foreign nationals and workers where it would protect them against humiliating and degrading treatment, including sexual exploitation and human trafficking. Our immigration officers play a key role in Canada's immigration process. This part of the bill gives the individuals who are on the front lines daily more discretion in our government's fight against trafficking.

These initiatives are identical to those previously proposed in the former Bill C-56, the Preventing the Trafficking, Abuse and Exploitation of Vulnerable Immigrants Bill.

The proposed reforms would come into force in the same manner as originally proposed by the respective predecessor bills. Part 1 would come into force upon receiving Royal Assent and the balance would come into force on a day to be fixed by Governor-in-Council. This will enable our government to consult with the provinces and territories on the time needed to enable them to prepare for the timely and effective implementation of these reforms.

Canadians deserve to feel safe in their homes, victims deserve to be treated with more respect, corrections officers need the tools to do their jobs, and offenders must be prepared to take responsibility for their conduct and pay the price if they break the rules. Bill C-10 will achieve these goals.

Honourable senators, I know that it has taken some time for me to go over the details of our government's important, comprehensive crime bill with you, but I feel it is important that you are well versed on the initiatives put forward by our government to better protect victims. Through all the bills before Parliament, including all the hard work that was done — especially the 60-plus hours in the Senate committee — we have

given everyone ample opportunity to properly understand this bill, because it is our duty to keep our communities safe and to stand up for the interests of law-abiding Canadians.

We were very clear in the last election that this was a priority for our government. We have put these bills together to follow through on our commitment to deliver on our promise to Canadians. A great deal of work has gone into this, and I am sure all honourable senators will agree that we have spent many hours, months and years going over the details of this bill.

Our esteemed colleagues in the House of Commons worked attentively to do their due diligence in studying this important bill. Many members of the House of Commons rose to speak on issues important to their constituents and all Canadians.

Our government is proud of the measures set out in this bill that will protect Canadians by making our streets, communities and country safer. Judging by the majority mandate delivered to us in the last election, Canadians wanted us to proceed. I was pleased to see the public opinion poll in Quebec that shows overwhelmingly that Quebecers support these initiatives. You would not know that by reading some of the media based in Montreal; but that is a fact.

• (2000)

Here in Parliament's upper chamber, the Standing Senate Committee on Legal and Constitutional Affairs did a phenomenal job of studying this bill. Led by our colleague, Senator John Wallace, the committee heard from 106 witnesses during more than 60 hours of testimony. I would personally like to thank all members of the Legal and Constitutional Affairs Committee, from both sides of this chamber, for their dedication and thoughtful work.

Honourable senators, I would like to thank you for your undivided attention as I have gone through this bill in great detail. I also wish to urge you to allow this bill to move along to Royal Assent so that we can meet our commitment to Canadians. It is my hope that you share our government's belief that the protection of society must be the paramount concern of our justice system.

Honourable senators, Bill C-10 sets out to address serious and violent crime in Canada, a statistic of crime that is on the rise. Despite some of the figures that have been thrown around, violent crime is on the rise. Canadians continue to tell our government that they are losing faith in the justice system, and I can believe that. I certainly lost faith in the justice system on a personal level. Bill C-10 is a step towards restoring Canada's confidence in our justice system — a system that is intended to protect them. Canadians want a justice system that is fair, consistent and accountable. Bill C-10, the Safe Streets and Communities Bill, will ensure that law-abiding citizens and families are protected, that criminals are held responsible and answer for their crimes that endanger the public's safety, and, most importantly, that victims are heard, respected and treated properly.

Hon. Serge Joyal: Honourable senators, I will follow the invitation that Senator Wallace, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, made earlier in his question to the Honourable Leader of the Opposition by avoiding making political statements of generality that might produce a lot of applause or entertain some bias that some of us might have against the judicial system or against various aspects of our legal institutions in Canada. Rather, I want to concentrate my remarks on some of the constitutional aspects and Charter aspects of this bill.

If we have a duty, as legislators, especially in the Senate, it is to ensure that when we adopt legislation, we do so by paying due respect and attention to the Canadian Constitution, that is, the sharing or divisions of power that we know as one of the characteristics of our system of government, and, of course, the paramountcy of the Charter provisions, especially when we legislate in relation to the Criminal Code. We know that when we legislate in relation to the Criminal Code, all of our decisions have an impact on the freedoms of Canadians. If there is a value that we uphold in this country, it is the freedom and dignity of each and every Canadian.

I would like to thank Senator Baker who has afforded me the opportunity to state my views at this stage of the debate. Having reviewed the bill in its various parts as outlined by the Honourable Leader of the Government, I have come to the conclusion that there are at least seven aspects of this bill that are open to challenge on constitutional grounds. I say that with great preoccupation because if we adopt legislation in Parliament that is challenged the next day in court and those provisions are struck down by the court on the basis of either the Constitution or the Charter, then Canadians may lose faith in the work of Parliament and may lose their trust in the judicial system. Canadians expect the objective of the bill to be sustained by the court, but when the expected and the promised are not upheld by the court, then we do not serve the objective of the legislation and the trust of Parliament. Canadians must continue to trust Parliament.

The first aspect of this bill which is really problematic is mandatory minimum sentencing. In the last five years, we have adopted a number of bills that have imposed mandatory minimum sentences. We have done that in relation to amendments to section 95 of the Criminal Code on loaded firearms and in relation to provisions around drunk driving causing harm and eventually death. I remember that the Honourable Leader of the Opposition stood up at that time and was very eloquent in speaking to the need for us to adopt that proposed legislation. Unfortunately, honourable senators, those two provisions that were adopted on the government initiative imposing mandatory minimum sentences have been struck down by the courts. The most recent one was in mid-February 2012 — less than two weeks ago — in *R. v. Smickle* by the Ontario Superior Court of Justice. The presiding Justice Molloy came to that conclusion, and she said:

A reasonable person knowing the circumstances of this case, and the principles underlying both the Charter and the general sentencing provisions of the Criminal Code, would consider a three year sentence to be fundamentally unfair, outrageous, abhorrent and intolerable

That was in relation to the loaded firearm provisions of the Criminal Code that we amended in this chamber in 2007. To make people believe that a mandatory minimum sentence will

keep someone in prison for two, three or five years, will not hold the test of the Charter.

A similar decision was made in the Court of Quebec in March 2011 by Justice Valmont Beaulieu, in *R. v. Perry* almost one year ago in relation to the amendments to the drunk driving provision.

[Translation]

In his ruling, Justice Beaulieu said that, by limiting the discretion of the court in this way, these new provisions could result in sentences that would be unfair, extremely disproportionate and inappropriate and thus the court would be imposing arbitrary sentences in violation of sections 7 and 9 of the Charter.

[English]

In less than one year, we have been told that mandatory minimum sentences are constitutionally fragile, if not vulnerable. If we are to continue to legislate in the Criminal Code and add minimum sentences for all kinds of crimes and for all kinds of good or not-so-good reasons, we should definitely follow the suggestion made by the bar association when they appeared before the committee on February 8 — add a safety valve to the Criminal Code. Mr. Daniel MacRury, Chair of the National Justice Section of the Canadian Bar Association, suggested a text to include that would read as follows:

Where an injustice could result by the imposition of a mandatory minimum sentence in extraordinary circumstances, the judge may consider other sentencing options.

• (2010)

I would add, “. . . in justifying in writing his or her decision.” I think that in fact would keep the minimum sentence, but at least would avoid repeated decisions of the court whereby those minimum sentences would be set aside.

As my colleague Senator Jaffer said earlier on, there are other Western countries that have mandatory minimum sentences, such as the United States, Australia and the U.K., and those countries have such a safety valve in their criminal law. In other words, we would not do something that would be totally contrary to what is the criminal tradition in those countries that borrow and share the same kinds of traditions in terms of criminal law.

The other elements of mandatory minimum sentences that in my opinion could lead to a challenge in court are the impacts of those decisions in reference to Aboriginal people. The impact takes the following scenario: As you know, honourable senators, following a decision of the Supreme Court in a famous case called *Gladue*, the court came to the conclusion that Aboriginal peoples in Canada, having been the object of systemic discrimination, when it comes to sentencing, the court is bound to take into consideration the particular circumstances related to their status as Aboriginal peoples. This is called the *Gladue* principle. We all

know that Aboriginal people are overrepresented in the prisons in Canada. My colleague Senator Cowan has given some figures. I will repeat some of them.

In the Prairie provinces Aboriginals represent 60 per cent of the inmates. They represent roughly 18.5 per cent of the prison population in Canada while, in fact, they constitute 2.7 per cent of the Canadian population. In other words, there is a systemic problem with the Aboriginal peoples in prisons. That has been stated by the Supreme Court of Canada, and that is why we, in former sessions of the Canadian Parliament, have amended section 718.2(e) of the code to put before the sentencing judge the specific conditions under which Aboriginal people find themselves in a situation of systemic discrimination as far as the justice system is concerned.

What will happen with this bill? Bill C-10 is tricky. It does not talk about Aboriginal people, but since this bill extends the number of minimum sentences, the *Gladue* principle does not apply. When an Aboriginal person is found guilty in the court, the fact that the person is Aboriginal does not apply. It means that the more we impose minimum sentences, the less Aboriginal people are protected by the provisions that the Supreme Court has decided are compulsory when imposing sentence. In other words, we are depriving the Aboriginal people of the protection that the Supreme Court has recognized in a landmark decision in relation to the presence of Aboriginal people in the criminal justice system of Canada. At a point in time, by multiplying the minimum sentence, we are in fact nullifying the effect of the *Gladue* decision.

In my humble opinion, what will soon happen is that lawyers and groups of lawyers who defend Aboriginal people, like the Kenora group we heard at the committee, will challenge the constitutionality of those minimum sentences because they equate to the nullification of the protection to which they are entitled under our Constitution. That is very serious and that is my second concern in relation to the constitutionality of this bill.

My third concern is in relation with the youth justice section of the bill. The Supreme Court of Canada, in a 2008 decision, which is a rather recent decision, called *R. v. D.B.*, established the principle that the court must follow in relation to when they have to judge or decide about the criminality of a young offender. I am quoting from the court, because it is very important to keep that principle in mind:

The principle of fundamental justice at issue here is that young people are entitled to a presumption of diminished moral blameworthiness or culpability flowing from the fact that, because of their age, they have heightened vulnerability, less maturity and a reduced capacity for moral judgment. That is why there is a separate legal and sentencing regime for them.

The court continues:

The presumption in question is, firstly, a legal principle.

In other words, we cannot avoid it, we cannot try to finesse it, and we cannot try to juggle with the different concepts to try to not respect the legal principle that the young offender has a diminished moral blameworthiness or culpability.

The problem with the bill, in my opinion, is clause 185, whereby we expand the publication ban that normally follows from a decision when we bring a youth before the youth criminal court. The problem with this clause is that it extends that principle, while in fact the Supreme Court has stated in the same decision, as follows:

... the publication ban forms no part of the young person's sentence. ...

The fact that the bill is drafted in a way that it links any violent offence to a potential criminal ban, without defining in very restrictive terms what is a violent offence, fails to meet the test of the Supreme Court.

May I have five more minutes?

Hon. Senators: Agreed.

Senator Joyal: That is the third count on which I think this bill fails.

The fourth one is in relation to the international transfer of prisoners that the Leader of the Government in the Senate mentioned. Honourable senators must know that in the last four years there have been 13 decisions of the Federal Court of Canada that have quashed decisions of the Ministers of Public Safety — Minister Toews, Minister Van Loan and Minister Day — in refusing the transfer of prisoners. It is the highest number ever in which the Federal Court has come to the conclusion that refusing the transfer of prisoners for the mere sake that it threatens the public safety of Canadians is not acceptable in Canadian law.

The last decision in relation to that was in February, last month, less than two weeks ago. The way the bill is drafted, especially by linking the decision of the minister to the fact that a Canadian who is in prison in the United States or somewhere else in the world might not have resided too long in Canada, would run contrary to section 6 of the Charter. That is the mobility right. The bill contains a kind of open motive, or any other motive that the minister might have to refuse the transfer, which in my humble opinion is open to challenge on the same grounds as in the 13 decisions I mentioned earlier.

Honourable senators, the fifth count is about the compensation for victims of terrorism. I am addressing myself to Senator Tkachuk, who has sponsored that bill. I have supported that bill and I continue to support the intention of the bill. The only problem is linked to two aspects of the implementation of this bill. The first is that the bill establishes a cause of action in the State Immunity Act, and that is contrary to section 92.13 of the Canadian Constitution, which gives the province responsibility in terms of property and civil rights. We have heard witnesses before the committee who have raised that issue. It would be against that section. It could not be within the State Immunity Act.

• (2020)

The second argument is that it would run contrary to international law. I want to cite a decision of the International Court of Justice, from February 3, 2012, less than a month ago. The court refused to allow Italy to bring Germany to court for

reparation for damages inflicted to Italy in the last world war because the court came to the conclusion that you cannot change state immunity to seek damages or compensation, even if those acts are as abhorrent as the ones the Nazi government inflicted on Italy and other countries. This very recent decision, in my opinion, questions the scope of this bill and the way it is drafted.

Finally, honourable senators, there are two other aspects of constitutionality that can arise from this bill. One has been mentioned, indirectly, by my colleague Senator Cowan. It is the fact that we will so increase the number of inmates in Canadian prisons that we will go over the threshold that the Supreme Court of Canada established in May 2011, less than a year ago. When the occupancy is over 137 per cent of the prison capacity, the Supreme Court of the United States has concluded that it is a violation of the Eighth Amendment — protection against cruel and unusual punishment — which is section 12 of our constitution. By reviewing, very quickly, the level of occupancy in Canadian prisons, I can mention to you that in B.C. the prisons are at 170 per cent and 200 per cent over capacity. This bill will have the unintended consequence of opening challenges on prison capacity against section 12 of the Charter.

I could mention, of course, the part of the bill that removes the concept of pardon to instead establish a record suspension. This, in my opinion, runs against the fundamental dignity and liberty of Canadians. Once you have paid your debt, society blesses you. Sorry to use a religious term, honourable senators. Society lets you free. No one has challenged that. I bring to your attention that this, in my opinion, runs contrary to one of the fundamental values of Canada.

Sorry to have been too long, honourable senators, in the short time.

[Translation]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I am pleased to speak today to Bill C-10, the Safe Streets and Communities Act.

[English]

This bill includes measures from nine bills that had been tabled in the previous Parliament. Though it is a large piece of legislation, most of its clauses, which were part of several separate bills, have already been studied in the other place or in committee.

[Translation]

Before we go any further, I would like to quote a witness who, in my opinion, is representative of a good number of Quebecers.

For the victims, Bill C-10 contains a tremendous message of hope. Whether the aggressor is an adult or a young offender, Bill C-10 introduces mechanisms to impose harsher sentences for violent crimes, sexual predators and drug traffickers. More severe and more vigilant criminal justice will also be earned more respect and be more credible. People's confidence will be bolstered. Society's disapproval of these types of crime has reached an all-time high. Bill C-10

provides concrete solutions, including mandatory minimum sentences, adult sentencing for young offenders who commit serious and violent crimes, and the publication of the names of violent young offenders who have a high risk of reoffending.

A recent poll indicates that 77 per cent of Quebecers want more severe criminal justice. This impacts the sentence handed down, and also the sense of security that all citizens should have for themselves and for their families. The current government has been very open with Canadians. Its criminal justice approach was well known and voters gave their stamp of approval by giving the government a majority mandate.

That is what a former Liberal justice minister from Quebec had to say to us.

Now, as there is very little time to discuss the various aspects of the bill in detail, I too have decided to target one aspect in particular and to study it at length, and that is minimum sentences.

Bill C-10 introduces, in various clauses, the principle of minimum sentences that must be imposed for various serious crimes. For some time now we have been hearing some very harsh criticism about this principle of minimum sentences. In December, during the debates in the other place on Bill C-10, just before it was passed at third reading, the Liberal Party justice and human rights critic, the honourable Irwin Cotler, a former justice minister, said that the principle of minimum sentences was an abomination that we absolutely must avoid. According to him, minimum sentences would have a negative impact.

Other members of our honourable chamber regularly speak out against minimum sentences, including Senator Hervieux-Payette, who never misses an opportunity to associate minimum sentencing with what she calls an ineffective and costly Conservative ideology. The leader of the opposition has also railed, again today, against minimum sentences. Member of Parliament Sean Casey, who spoke on behalf of the Liberal Party in order to express his party's position on Bill C-10 said:

... this tough on crime legislation, the increasing of mandatory minimum sentences, does not work. ... It is ideologically driven and it flies in the face of facts and evidence.

It is plain to see that the Liberal Party is staunchly against minimum sentences, but the MP goes further. According to him, the willingness to impose minimum sentences is ideological, which makes us the defenders of this ideology that flies in the face of facts. That was their position in fall 2011.

Let us look back nearly seven months earlier. The majority of the minimum sentences that are introduced in Bill C-10 originated in former Bill C-54 entitled Protecting Children from Sexual Predators Act. On March 11, 2011, at third reading, all the parties represented in the House of Commons, Liberal, NDP, Bloc and Conservative, voted in favour of the bill and all the minimum sentences therein.

More recently, on February 13, 2012, an Ontario Superior Court judge decided not to impose the minimum sentence of three years set out in section 95 of the Criminal Code because she was of the opinion that the sentence would be cruel and unusual punishment in this very specific case. Since then, the NDP and the Liberals have launched an all-out attack, blaming the Conservative government's ideology and criticizing the relevance of minimum sentencing.

For me, this was a starting point from which to conduct more detailed research on minimum sentencing, and I have decided to share some of what I discovered with you today.

• (2030)

The minimum sentence of three years set out in section 95 of the Criminal Code, which has been the target of an Ontario Superior Court decision, was passed by the House of Commons on November 26, 2007, with overwhelming support from all of the opposition parties — Liberals, New Democrats and Bloc members alike. In fact, only one member of the entire House of Commons opposed it. Yes, you heard me correctly: Denis Coderre, Gilles Duceppe, Stéphane Dion, Thomas Mulcair and Yvon Godin all voted in favour of this minimum sentence.

But there is more. In his October 26, 2007, speech about the bill that would impose this minimum sentence of three years, Liberal Brian Murphy, opposition critic, stated:

I remember that it was a Liberal minister of justice who brought in the whole concept of mandatory minimums, which at the revolving door of the Conservatives' press circle was as if it was invented by them.

Such a statement led me to believe that the Liberals were the ones who invented minimum sentencing in Canada. So how do we explain the fact that the inventors of minimum sentencing are now speaking out against each use of their own invention?

Honourable senators, these obvious and surprising contradictions by members of the Liberal Party piqued my curiosity and, in order to satisfy it, I had to do a little bit of historical research on minimum sentencing in Canada. It is always interesting to know where we started in order to be able to see how far we have come, but especially to find out whether minimum sentencing is merely useless Conservative ideology as the Liberals claim.

This research was very enlightening in more than one way. It allowed me to discover that, contrary to MP Brian Murphy's claims, it was not a Liberal justice minister who first introduced the concept of mandatory minimum sentencing but, rather, the Right Honourable John Thompson, Conservative Prime Minister and Minister of Justice, who, in 1893, had the minimum sentence of three years passed for offences set out in sections 92 and 95 of the Criminal Code, namely, engaging in prize fighting. I would like to reassure Senator Brazeau that this offence no longer exists.

As for the global historical context of minimum sentences, here are some interesting facts.

From 1892 to 1921, minimum sentences were introduced into the Criminal Code by Conservative governments on 11 occasions. It was only in 1922 that the Right Honourable William Lyon Mackenzie King became the first Liberal Prime Minister to have a minimum sentence of six months' imprisonment adopted. For what type of offence? For the importation, possession, manufacture or distribution of narcotics and opium. At the time the Liberals seemed really concerned about drug trafficking. They were the first ones to pass a minimum sentence for drug trafficking.

Later on, minimum sentences were introduced on a regular basis. But could you tell me how many minimum sentences were added to the Criminal Code, by Liberal or Conservative governments? Honourable senators, in your opinion, which political party introduced the largest number of minimum sentences in the history of our country? Since 1892, a total of 53 minimum sentences were introduced into the Criminal Code. Of that number, 18 were introduced by Conservative governments, and 35 by Liberal governments. Therefore, the Liberals have used minimum sentences as punitive measures and deterrents twice as often as the Conservatives. Perhaps this is why member of Parliament Brian Murphy was under the illusion that the Liberals had invented the concept of minimum sentences.

Now, I have a little quiz for you. Which prime minister resorted to minimum sentences most often? Trudeau stands in third place with seven minimum sentences. You say Martin? He is in second place with nine. The number one is Chrétien, with 11 minimum sentences.

Honourable senators, as you can see when our friends try to depict the Conservatives as being ideologues advocating minimum sentences, I have some difficulty understanding their reasoning because they are the champions in that respect.

Talking about champions, I have another quiz: Which Minister of Justice holds the record for imposing minimum sentences? Which Minister of Justice passed the largest number of minimum sentences in the history of our country? None other than the current Liberal critic in the House of Commons, Irwin Cotler, the same individual who is now condemning the introduction of minimum sentences. It is during his stint as Minister of Justice, under Paul Martin, that he had nine sections of the Criminal Code amended to introduce minimum sentences. Former minister Cotler is Canada's all-time champion with nine minimum sentences in a single year. He is closely followed by his predecessor, the honourable Allan Rock, who had introduced eight minimum sentences, albeit over a period of several years.

In the end, one must realize that the only principle is really: Do as I say, not as I do.

What a fine way to deal with public safety!

Honourable senators, we live in a society governed by the rule of law, and people expect parliamentarians to pass the best laws to protect them. When it comes to certain social evils, the citizens who elected their representatives refuse to let partisan interests taint the decision-making process. Governments must listen to

them. When a system applied to certain types of crimes has gone too far in one direction and no longer achieves its expected results and objectives, we, as parliamentarians, must restore balance.

In 1995, the concern with firearms and violent crimes was a major one and it led to a series of measures, including the adoption of nine minimum sentences. We note that these minimum sentences had an impact. Gun crime has now decreased.

The Hon. the Speaker: Senator Carignan's time has expired. Honourable senators, is leave granted to allow him to continue?

Hon. Senators: Agreed.

Senator Carignan: Honourable senators, Canadians are asking us to protect children from sexual predators and drug dealers, so we have to send a signal to the courts that society no longer tolerates these aberrant behaviours and that the penalties associated with these crimes should be harsher.

I want to emphasize that this is a signal to the courts, because in the ruling that Senator Joyal quoted from earlier, the judge established her test for assessing the minimum penalty, for determining whether the punishment was cruel and unusual, but she did not take into account the fact that it was a mandatory minimum.

• (2040)

In her test, she did not take into account the unanimous will of the House of Commons, which wanted harsher penalties for this type of offence with a firearm. The courts must heed the will of Canadians, who will no longer accept these kinds of offences and lenient sentences. The courts must heed this signal, as they did with the nine minimum sentences introduced in 1995; as Pierre Elliott Trudeau did in 1969 to tackle the scourge of impaired driving; as Jean Chrétien did in 1995 to tackle the scourge of violent crimes involving firearms; and as Paul Martin did in 2005 to tackle the scourge of child pornography.

Honourable senators, I urge you to join us in tackling the scourge of sexual predators and drug dealers by fully supporting Bill C-10.

Hon. Maria Chaput: Honourable senators, I cannot in good conscience support Bill C-10, which was clearly conceived with very little consideration for the negative effects it could have if passed in its current state. Some might say that it does have some positive aspects, and that is true. However, we cannot ignore certain very worrisome aspects of the bill, particularly the devastating effect it will have on Aboriginal communities.

During the deliberations of the Standing Senate Committee on Legal and Constitutional Affairs, we had the privilege of hearing testimony from various stakeholders who all addressed specific points in the bill that troubled them. Many of them also wisely suggested possible solutions. It is absolutely inconceivable to me that anyone could rise here today and say that we did not hear anything during the many hours of testimony that might cast some doubt regarding the quality of at least one provision in this

huge bill. It is inconceivable that anyone could say that we were unable to come up with any improvements, to even one part of this bill.

Yes, six amendments were accepted. Those amendments had been rejected in the other place, before the Conservatives realized that perhaps they were necessary. However, after the hours and hours of testimony at the Standing Senate Committee on Legal and Constitutional Affairs, it seems disingenuous for anyone to say here today that we did not find any other problems, some of them bigger than others. It also makes me uncomfortable knowing that the hard, passionate work of several witnesses was completely disregarded in the end.

We heard witnesses talk about the mental health problems that abound in our penitentiaries, about the endless waiting lists that exist for rehabilitation programs and about prosecutors who still do not have any means of targeting the most dangerous criminals, in other words, those who, incidentally, will not even be affected by the new mandatory minimum sentences.

We also heard witnesses talk about rehabilitation programs that focus on prevention among young offenders, community programs that are achieving positive, tangible results in terms of reducing crime and recidivism.

We have also heard a great deal about the need for a program for victim rehabilitation. Bill C-10 does not address any of this. It does not address the rather key issue of mental health. It certainly does not address prison crowding because it will be mainly incarcerating people under new minimum mandatory sentences and not hardened criminals that deserve harsher sentences.

Bill C-10 also does not address community programs, other than to diminish their scope by making more use of the prison system.

Contrary to what some people just keep repeating, there is not much in Bill C-10 to deal with the real needs of victims.

We heard hours and hours of testimony. However, although the senators who sat on the committee have been enlightened, Bill C-10 is none the better for it. I find that deplorable.

Nowhere is the lack of reflection and substance more evident than in the discussion of the impact Bill C-10 could have on Aboriginal communities.

Let us begin by citing the evidence: Aboriginal people are seriously overrepresented in the prison population. The committee report points this out in its comments but concludes, unfortunately, that this problem goes beyond the criminal justice system. It is true that efforts in other areas may help reduce Aboriginal overrepresentation in prisons. But to say that the criminal justice system does not play a role in Aboriginal overrepresentation is a huge leap. This conclusion has no basis and, with due respect for the authors, reveals a certain indifference.

According to the Correctional Investigator's 2009-10 annual report, rehabilitation programs do not have the same beneficial effects on Aboriginal inmates as they do on other inmates. It is

very important that we understand what this means. According to its mission statement, the Correctional Service of Canada, and I quote:

... contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control.

Still according to Correctional Service of Canada, the CSC's two primary fundamental values are:

Respect [for] the dignity of individuals, the rights of all members of society, and the potential for human growth and development;

and:

Recognizing that the offender has the potential to live as a law-abiding citizen.

If we accept that prison rehabilitation programs do not have the same beneficial effects on Aboriginal inmates, then we must conclude that the criminal justice system, in terms of the rehabilitation of Aboriginal inmates, does not do them justice.

Let it not be said that this same system bears no responsibility for the overrepresentation of Aboriginals in the prison system. Let it not be said that a bill dealing with this same system cannot acknowledge this problem either.

In committee we heard the Minister of Justice from Nunavut, Daniel Shewchuk. I think it is important to share what we learned in committee because you will find no indication of it in the bill before you.

According to the minister:

Nunavut is likely to be the most affected by the new legal regime created by Bill C-10, particularly as it relates to Nunavummiut offenders and the reduction of our Judges' discretion in exercising their sentencing function. Bill C-10's emphasis on incarceration through its the mandatory minimum sentencing provisions will guarantee an influx of prisoners in our territorial jails, which are already overcrowded and will create an even larger backlog in our Courthouse.

The important thing to note is that the Government of Nunavut has already found ways to fight crime, and I quote Mr. Shewchuk again:

A majority of the crime committed in Nunavut is fuelled by alcohol abuse — a sign that underlying conditions drive our high crime rates. A recent pilot program partnering our department of health and social services and the RCMP has demonstrated that most habitually intoxicated people are prepared to seek help for their addiction if they know where to go and what to do. In the first six months of the program 147 addicted people were arrested a least twice. Seventy-eight of them agreed to get help. Of those 78, 67 of them have not been back in custody. This is a small example of

the cooperation and commitment from our institutions, and of the benefits of a rehabilitative-focused justice strategy that is working for Nunavut.

This is a very real example, which decreases recidivism and makes Nunavut safer.

• (2050)

Why not listen to him? Why say that incarceration is required to achieve safety? The federal, provincial and territorial governments all have to work within limited budgets. The federal government's decision to limit judges' discretion means that it is dictating to the provincial and territorial governments that they must allocate a larger portion of their resources to incarceration. I would like to remind honourable senators that, in the context of Aboriginal communities, the federal government is dictating that a larger part of their resources must be allocated to a system that does not respect them or meet their needs.

The federal government is also dictating to Aboriginal communities that they must ignore their traditional justice system. For example, traditional Inuit justice, which is recognized in the Nunavut Court of Justice's case law, is much more strongly based on restorative justice in the form of traditional community-based sanctions. It also produces better results. Of course, minimum mandatory sentences completely rule out this possibility. So once again, we are imposing solutions that are poorly suited to Aboriginal communities. Unfortunately, history seems to be repeating itself.

Here are some quotes from other witnesses who appeared before the committee.

[English]

Mr. Roger Jones, senior strategist, Assembly of First Nations:

In 1996, the Royal Commission on Aboriginal Peoples drew two conclusions: first, that there is a consensus that the justice system has failed our people, and second, that notwithstanding the hundreds of recommendations from previous commissions and task forces, the justice system was still failing them in 1996. Tragically and unacceptably, nothing has occurred between 1996 and now, a period of 16 years, that allows us to draw any different conclusions.

The failure that the royal commission pointed to is characteristic of all aspects of the criminal justice system, from policing to sentencing to imprisonment to post-release services. The current criminal justice system has profoundly failed First Nations peoples by failing to respect cultural differences, by failing to address systematic biases against our people and by denying them an effective voice in the development and delivery of services.

Another witness, Ms. Christa Big Canoe, Legal Advocacy Director, Aboriginal Legal Services of Toronto said:

We believe that the Safe Streets and Communities Act will make the problem of Aboriginal over-representation in prison even worse, while at the same time not actually addressing the legitimate safety concerns of Aboriginal and non-Aboriginal people in this country. . . .

When Aboriginal people only represent 4 per cent of the Canadian population but are one quarter of the people incarcerated in this country, there are obvious problems and failures within the justice system, both historically and currently. Courts have recognized the Canadian justice system has failed Aboriginal people in this country. We provide services to Aboriginal people to stave off or minimize the impact of those failures. We see this act, particularly in relation to mandatory minimum sentences and the prohibition of conditional sentences, has potential to cause further harm.

Specifically, the increased reliance on minimum sentences means less opportunity for conditional sentences. This is problematic because it prevents the judge from considering them as a sentencing option.

Ms. Christa Big Canoe ends up by saying:

I put this to you because as a First Nations woman who works in Canadian law representing Aboriginal people, the dream would be that one day there would be no need to have a provision in the Canadian Criminal Code that specifically asks us to pay special attention to Aboriginal people because the hope would be that the remedial nature of when the legislators put this in would come to fruition, that there would not be the continuing and systemic issues that Aboriginal people face. The reality is we are not there. In fact, reports and statistics demonstrate that Aboriginal incarceration is only increasing, not lessening. The mandatory minimum and the removal of certain types of conditional sentences on certain offences will only compound this and make it worse.

[Translation]

If there is one lesson to be learned from the testimony we heard in committee, it is that crime is a very complex issue. If we truly seek to understand crime, we must not be afraid to talk about mental health, rehabilitation, alcoholism, poverty, prevention, collaboration, restorative justice, true and lasting security, victims' rights, victim rehabilitation, the unique characteristics of communities, fair sentencing, and the circumstances surrounding every accused and every victim. We must not be afraid to talk about statistics either.

I cannot support a bill that amends the Criminal Code, yet fails to consider almost every factor related to crime. Such a bill cannot disregard the piles of studies — produced by both academics and individuals working in the field — that sound the alarm.

The government cannot get rid of crime simply by saying that it is now tough on crime. That may be a convincing catchphrase, but it does not work that way.

Many others have said that Canadians' confidence in the criminal justice system is shaky even though crime rates are consistently declining. If that is true, and if the government believes that there really is a lack of confidence, why not take the initiative to have a real discussion about crime? Or about how

crime rates are dropping? Or about how crime rates could fall even lower if we invested more in prisoner rehabilitation and treatment of mental illness? Or about how victims get more support in provinces that are supposedly soft on crime?

The Hon. the Speaker: Honourable senators, is the honourable senator's time up?

Hon. Senators: Five minutes.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Chaput: Or about how Aboriginal communities should develop their own solutions to fight crime, which we should support? Are we merely trying to take advantage of this public perception for purely political reasons? I hope that is not the case. I am disappointed that, for all manner of reasons that I find unacceptable, we have not seized this opportunity and postponed having the real, in-depth conversation about crime and public safety that Canadians deserve.

Honourable senators, we were able to glimpse the unintended effects that Bill C-10 could have on the safety of our communities, and we made no corresponding amendments. Therefore, I cannot support this bill.

Senator Fraser: Would the honourable senator accept a question?

[English]

I would ask my question in English because I do not have the vocabulary in French. Senator Chaput was an assiduous member of the committee, and she will remember the testimony from Mr. Scott Wheildon, the lawyer who practises in Nunavut.

Senator Chaput: Yes.

Senator Fraser: He explained that Nunavut relies heavily on circuit courts, courts that travel, and he described what it is like for a small Inuit community where someone commits an offence and the community handles it in its age-old way and the community is reconciled and life gets back to normal; and then the court arrives, flies in, descends from the heavens and says, "Well, sorry, we do not care about traditional justice. You have to face trial." Now they will face even more mandatory minimums than in the past.

What does the honourable senator think that will do to the Inuit people's faith in our system of justice?

[Translation]

Senator Chaput: That is a very good question. I am thinking of what was said when discussing the importance of their traditional justice system, which has been recognized in case law and which is based on restorative justice.

There is no doubt that the result will be that they have less confidence in the justice system which, in my opinion, seems to be increasingly discriminatory towards them. It will be even more detrimental for these communities, and I regret it.

• (2100)

[English]

Hon. Dennis Glen Patterson: Honourable senators, I would like to ask Senator Chaput a question.

I have been listening to the comments about Nunavut and Aboriginal offenders being prejudiced by mandatory minimum sentences. I would like to ask the honourable senator if she knows that in the *Gladue* decision that has been spoken about in the chamber tonight, the Supreme Court said that the section in the code is not to be taken as a means of automatically reducing the prison sentences of Aboriginal offenders, but that, in fact, generally the more serious and violent the crime, the more likely it will be as a practical matter that the terms of imprisonment will be the same for similar offences and offenders.

Since Bill C-10 focuses largely on serious, violent crimes of repeat offenders, would the honourable senator agree that the *Gladue* principle largely does not apply to offences under Bill C-10?

[Translation]

Senator Chaput: The principle of the *Gladue* ruling states that judges must take into account the specific circumstances of an Aboriginal community as well as its traditional methods for dealing with whatever happens in the community.

If judges have that discretion, it does not mean that the entire community, every member of an Aboriginal community, will have any less. On the contrary, the judge must take the specific circumstances into account and render a judgement based on what is possible. This does not spare a hardened criminal from being punished. That is not this issue here. The specific circumstances must be taken into account in order to ensure that justice is served. That is my understanding of the ruling.

[English]

Senator Patterson: If I may ask another question, the honourable senator referred to Minister Shewchuk of Nunavut who talked about overcrowded jails.

The Hon. the Speaker: I am afraid, honourable senators, that the fifteen minutes plus five have been exhausted.

Continuing debate.

Hon. David Tkachuk: Honourable senators, I want to speak to the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs tabled here. Many senators know that I had spoken to Bill C-10 at second reading and know how I feel about the bill. Today, I want to spend some time on the Justice for Victims of Terrorism Act, which is part of Bill C-10. I want to speak to it on the basis that nothing of value really happens in this place unless people are working together, not only my colleagues in this place, but the citizens outside of this place.

It has been seven years since the Justice for Victims of Terrorism Act was introduced in the Senate. It has not been a lonely journey, though. My travelling companions along the way

included many stalwart members of the Canadian Coalition Against Terror. I want to mention some of their names here because they worked so hard in making this bill happen: Sheryl Saperia, Aaron Blumenfeld, Danny Eisen and, of course, Maureen Basnicki. They initiated the whole concept of the Justice for Victims of Terrorism Act. They sold it to me and others, and I was proud to carry it forward. Without their persistence over the last seven years, this act would not have seen the light of day.

For Danny and Maureen, both key members of C-CAT, this was not political. Justice for them was not an abstract concept; this was very personal. Danny Eisen lost his cousin and good friend in the attacks. His cousin was a young man only 31 years of age. His name was Danny, too, Danny Lewin, and he was on Flight 11. In our seven years of working on this bill, Danny Eisen never once mentioned this to me. I learned about it on the tenth anniversary of 9/11 in an article he wrote for the newspaper. In that article, he revealed that his cousin, a Special Forces officer, had been killed — stabbed and critically wounded — while fighting the hijackers alone and unarmed. Danny Eisen has been fighting the terrorists on behalf of his slain cousin ever since. He, too, has been fighting weaponless, but after Bill C-10, not anymore.

Maureen Basnicki's story is well known. She also had a family member murdered during 9/11, her husband Ken, a financial marketer for a software company. Ken Basnicki was on the 106th floor of the World Trade Center North Tower when the plane flew into it. As Danny wrote in his article, for Maureen Basnicki, there would be multiple burials as body fragments of her husband, Ken, would arrive in small packages by mail in the years that followed.

It is perhaps fitting, then, that this legislation came together in pieces over the years — a clause here, a clause there, an amendment here — until we finally arrived at an act that in its present form provides justice for victims of terrorism.

Of course, none of this would have happened without the people who sit here now or who have sat in this or the other place and supported it. Stockwell Day was an early supporter, and so was Nina Grewal. They introduced bills of their own on this. Irwin Cotler has also been a supporter of this act in one form or another.

The amendments made to the bill were C-CAT proposals to strengthen the act and have been included in earlier incarnations and renditions of this bill, but I want to thank Mr. Cotler for his persistence in introducing these amendments in the house. I think his persistence has paid off in the Government of Canada putting the amendments forward as government amendments.

Senator Wallace described these amendments in detail yesterday, so I will not go into them now. Let me just say that while Conservatives and Liberals may have disagreed about some details of this act, they never disagreed about the principles: providing justice for victims of terrorism, providing them with weapons to fight back and providing them means for deterring heinous crimes.

That is why I am grateful not just to our members but to all the members of the Standing Senate Committee on Legal and Constitutional Affairs as they sat in marathon sessions for five straight days last week to get this bill and this act introduced into this place. They introduced and passed important amendments to this act that make it more effective. The House of Commons failed to do it. We did not, and that is an argument for the Senate if there ever was one.

I am also grateful to past members of the committee and of the Special Senate Committee on Anti-terrorism who in previous parliamentary sessions conducted hearings on my private member's bill, the precursor of this act and the government's original bill.

In this regard, I want to mention a few senators by name: Senator Wallace, who ably chaired the Legal and Constitutional Affairs Committee during its hearings last week; Senator Fraser, who chaired an earlier incarnation of the committee during its hearings on my bill; Senator Runciman, the sponsor of Bill C-10, and who also kindly tabled all the important amendments; Senator Segal, the Chair of the Special Senate Committee on Anti-terrorism in the last session; and, finally, Senator Baker, who always supported this act and has spoken eloquently and knowledgeably about its legal and constitutional merits. I hope he speaks to Senator Joyal this evening.

Finally, I want to thank my leadership in the Senate, who encouraged me, especially our leader, Senator LeBreton. I want to thank the Prime Minister and the Minister of Justice for the initiative they took in turning a private member's bill into a government bill and seeing it through to its fruition. I urge all honourable senators to support Bill C-10.

Senator Jaffer: Honourable senators, would Senator Tkachuk take a question?

Senator Tkachuk: Sure.

Senator Jaffer: I agree with everything the honourable senator has said. He will agree with me that last week we sat for many days and studied this bill very carefully. I spoke earlier about something I was very concerned about — of which the government has now included as an amendment — being the right of victims to continue with the action once the action has been started. That is a recommendation I made in committee. It has now been accepted, so I am very happy about that.

I agree with the honourable senator in that we worked in a non-partisan fashion on this bill, and I believe we improved the bill. That is what we are saying. This place is one of sober second thought, where we need to take the time to improve on the bill.

• (2110)

I know Senator Tkachuk was not in subcommittee when this matter came up. I thought I knew this bill well until last week when two young professors, Hilary Young and David Quayat, came before us and spoke about their concern that the cause of action is a provincial jurisdiction, not a federal jurisdiction. They see that there may be some challenges for victims going forward.

I congratulate the honourable senator for the seven-year fight he had on this bill. He worked very hard and deserves all the credit.

However, the reason this bill needs to be studied once again is we still have the issue of the cause of action, whether it is provincial or whether the federal government can put in a bill a cause of action.

Senator Tkachuk: I am not a lawyer, and I certainly cannot argue all the constitutional arguments, but I am aware of the arguments that were put forth by those two or three witnesses.

I will go with the people who say that it is constitutional, and the Dean of Osgoode Hall Law School, Patrick Monahan, agrees that it is constitutional. He is one of Canada's foremost experts in constitutional law. Neil Finkelstein, another leader on constitutional law, whom many of you know and who has testified in the Senate in many committees, agrees this law is constitutional.

Of course, Senator Baker also agrees this bill is constitutional, so, like all bills, we have lawyers who disagree. I will take my lawyers over the three who testified on the committee.

Senator Jaffer: He is not here, but in committee when this issue of cause of action came up — my colleague here, Senator Fraser may also recall — Senator Baker said that was the first time it had been brought up, and he had some reservations about it. The bill is now before us, but that is another reason the bill should be studied further.

The Hon. the Speaker: Continuing debate, Senator Jaffer.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to speak to third reading on Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other acts.

This omnibus bill groups together nine bills. Most of them have been dealt with separately during the third session of the Fortieth Parliament.

After hearing from 110 witnesses over 11 days, for over 50 hours, the Standing Senate Committee on Legal and Constitutional Affairs seemed to agree on several very important principles: all members from both parties wish to deter organized crime; all members from the Senate wish to protect our youth and our children from sexual assault; and, finally, all members wish to ensure that Canadian families live in safe communities with safe streets. That is the expectation that we are setting out with Bill C-10.

Honourable senators, although I agree in principle with Bill C-10, which is to promote public safety, I am quite concerned that this bill will be unable to fulfill this objective. Instead, Bill C-10 simply raises the expectations of Canadians but will undoubtedly fail to deliver the desired outcomes.

Bill C-10 will not only be unable to deter crime and make our communities safer, it will further oppress already marginalized groups, most notably people who suffer from mental illnesses, our youth and Aboriginal people.

As I mentioned, Bill C-10 is composed of nine different pieces of legislation and is 114 pages in length. Throughout our committee study, several aspects of this bill were called into question, and a number of very important and pressing concerns were raised. Although there are several components of this bill that I am particularly concerned about, time permits me to touch on only a few of these concerns.

As a result, I rise today to speak on mandatory minimum sentences and the adverse effects they will have on those who suffer from mental illnesses, on our youth and on Aboriginal people.

Honourable senators, many of the witnesses who appeared before our committee spoke about the detrimental effects that instituting mandatory minimum sentences would have on Canadians. Among the witnesses who spoke to this aspect of the bill was Daniel MacRury from the Canadian Bar Association, who stated:

We believe that the substance of this legislation will ultimately be self-defeating and counterproductive if the goal is to enhance public safety. The bill takes a flawed approach to dealing with offenders in all stages of their interaction with the criminal justice system, from arrest, through to trial, to their treatment within the correctional institutions, to their inevitable reintegration back into society. It represents a profound shift in orientation from a system that prioritizes public safety through individualized sentencing, rehabilitation and reintegration, to one that puts punishment and vengeance first.

Honourable senators, although mandatory minimums are often said to deter, this will not be the case. Imposing mandatory minimum sentences will tie the hands of judges by limiting their ability to assess individual cases and use their discretion. It will also hinder the plea bargaining process and strain the justice system, which cannot meet the current needs, let alone the future needs, that will be created by this bill.

Throughout my career as a lawyer, I have learned many important lessons. One of those lessons has been that when it comes to sentencing, a cookie cutter approach will never work. No two cases are the same. Each case must be examined in its own unique context, and sentences should be imposed accordingly. Unfortunately, Bill C-10 fails to recognize this.

One group which will be harmed if this bill is adopted is those who suffer from mental illnesses. Thirteen per cent of males and 25 per cent of females currently in our correctional system suffer from mental disorders. During our committee study, we heard from Howard Sapers, who is a correctional investigator from the Office of the Correctional Investigator Canada. In his remarks, Mr. Sapers posed the following question:

... the real question, I suppose, is how to deal with the fact that prisons are not hospitals, but some offenders are

patients. It is about how to deal with the fact that you have chronically and acutely ill people in prison. Some will point their finger at law enforcement and say that at that point of intervention, a different decision should have been made; and some will point their finger at courts and say that when these mentally ill folks were brought before courts, the courts should have made different decisions.

Honourable senators, by imposing mandatory minimum sentences, we will be increasing the number of mentally ill people in prison as we would be limiting the court's ability to use its discretion. This bill takes an approach that is centred on deterrence and denunciation at the expense of rehabilitation and reintegration.

My law partner and mentor, the Honourable Thomas Dohm, Q.C., who was a lawyer and a justice of the Supreme Court of British Columbia, told me that when he was a judge he was always very aware that when he was sentencing a person to prison, he was not throwing away the key. Most offenders will someday have to be reintegrated into society, and he always told me that he considered what would happen to that person when he came back into society.

By adopting an approach that is so focused on deterrence and denunciation, rather than an approach focused on rehabilitation and reintegration, we are denying those who are suffering from mental illnesses the help they so desperately require.

Honourable senators, Bill C-10 raises our expectations by alleging to keep our streets and communities safer. However, we know that those who suffer from mental illnesses will not be helped. Therefore, our streets and our communities will not be safer.

Until those offenders who need to be rehabilitated receive the help that they need, our correctional goals will never be achieved and our streets and communities will not be any safer.

• (2120)

Another group that will be adversely affected by mandatory minimum sentencing is our youth. Canada is a signatory to the United Nations Convention on the Rights of the Child. Our government has a duty to assess proposed pieces of legislation in order to ensure that they are in compliance with this convention. Unfortunately, no such assessment has been tabled, so we as parliamentarians do not know what the assessment stated. This is exceptionally troubling, given that Bill C-10 appears to be in direct violation of Article 37 of the UN convention, which states detention "shall be used only as a measure of last resort and for the shortest appropriate period of time."

Honourable senators, Bill C-10 makes the assumption that being tougher on crime and punishing our younger people will force them to be held accountable for their actions. The problem with this is that we are making the assumption that these young people understand the concept of accountability.

During our committee study we learned that deterrence and denunciation are not effective in trying to deter youth crime. In fact, this leads to more young people spending long periods of

time in prison, which is unfortunate for many reasons, especially considering that prisons have been shown to be schools or universities to learn crime. They will receive a university education on how to become better criminals.

Our committee heard from Justice Merlin Nunn, who is often given credit for the reason we have this bill. He said:

... all you can do when you are looking at an amendment is ask yourselves if it is in the best interests of the child because that is the standard that the government should be following. That is the standard they said they were going to follow. I am not picking on this government. It does not matter which side is in; I think this is bad. They must look at it from the point of view of the best interests of the child.

Bill C-10 has raised our expectations by stating that being tough on crime, even when it comes to young offenders, will make our streets and our communities safer. Unfortunately, this will not be the case. Not only will throwing young offenders in jail fail to keep our streets safe, it will increase the likelihood that these young people will learn more about crime in prison and reoffend.

Honourable senators, lastly, I would like to talk about the adverse effects this bill will have on Aboriginal people who are currently overrepresented in our prison populations. In the 1999 Supreme Court case of *R. v. Gladue*, several very important sentencing principles were outlined. The decision made in the case appropriately responded to the dramatic overrepresentation of Aboriginal Canadians within our justice system and was mindful of the historical poverty and abuse that many Aboriginal people in Canada have been confronted with.

The Supreme Court of Canada has stated that the number of Aboriginals in prison is staggering. These principles do not in any way imply that Aboriginal offenders will receive less harsh penalties than non-Aboriginal offenders. Instead, they insist that courts take into consideration the harsh realities many Aboriginal Canadians face when sentences are imposed. Unfortunately, with the mandatory minimum sentences that accompany Bill C-10, the principles set out in the *Gladue* case will now be ignored as the hands of a judge will now be tied.

Our committee had the opportunity to hear from Professor Michael Jackson who stated:

I have, for 40 years, advocated as a professor, as counsel, as a member of committees of the Correctional Service of Canada and adviser to royal commissions, on the importance of recognizing and respecting the rights of Aboriginal peoples and the rights of those who find themselves in the deep end of the criminal justice system in Canadian penitentiaries.

Honourable senators, it is of utmost importance that we, like Professor Jackson, recognize and respect the rights of Aboriginal people. Although Bill C-10 has raised our expectations by promising to help keep our streets safer, throwing individuals who have historically been plagued by violence, abuse and poverty into prison, rather than giving them the help they require, will not make our streets any safer.

If we want to keep our streets and communities safer, we need to commit ourselves to getting to the very root of the problem. It is my belief that we should be investing our resources not in building big prisons but rather in rehabilitation programs that will in turn help vulnerable populations such as our youth, the mentally ill, Aboriginal people and minorities, and keep them from reoffending in the future.

Honourable senators, during our committee study, we heard from Mr. Howard Sapers, who pointed out certain facts that I found to be particularly troubling. He stated:

The profile of the offender population is changing. They are getting older. They are more addicted and more mentally disordered. Visible minorities, Aboriginal people and women are entering federal penitentiaries in greater numbers than ever before. One in five federal inmates are aged 50 or older; 36 per cent are identified at admission as requiring some form of psychiatric or psychological service or follow-up intervention; 63 per cent of offenders report using either alcohol or drugs on the day of their current offence; 20 per cent is of the Aboriginal descent; and 9 per cent of inmates are Black Canadians.

Honourable senators, I want to remind you that in the document, *The Canadian Senate in Focus*, the duties of the Senate chamber are described:

... its principal duty would be the revision and correction of legislation from the popular chamber, which would require "impartiality, expert training, patience and industry" in tandem with the representation of provinces, regions and minorities.

Honourable senators, it is our responsibility to represent provinces, regions and, in particular, minorities. We have not only a duty but an obligation to ensure that those who are mentally ill, our youth, visible minorities, Black Canadians and Aboriginal peoples are protected.

We have often heard this saying: It takes a village to raise a child. I want to add to that saying. It takes a village to raise a child, it takes a community to keep that child safe, and it takes a country to protect all of its citizens.

As members of the Senate of Canada, we must work hard to ensure that all of our citizens are protected. Although Bill C-10 sets out to keep our communities and our streets safe, it will not achieve this end. Instead, it will adversely affect populations that are already marginalized, populations that we as senators have an obligation to protect.

I urge honourable senators not to support Bill C-10.

The Hon. the Speaker: The senator is asking for five minutes.

Hon. Senators: Agreed.

Senator Fraser: Senator Jaffer, if I may, I would like to go back to the question of the best interests of the child and Justice Nunn's testimony. I think you can confirm for me that he confirmed that

the matter of “the best interests of the child” is not just a praiseworthy concept but it is part of our law, because our law — the Youth Criminal Justice Act — has incorporated by reference the international Convention on the Rights of the Child, which says that the best interests of the child shall always be paramount.

In that context, is it your recollection, as it is mine, that he said that making denunciation and deterrence principles of sentencing for young offenders was contrary to the best interests of the child?

Senator Jaffer: Yes, Senator Fraser, to answer your question, Justice Nunn did say that we had to look at the best interests of the child. We, in Canada, have accepted the Convention on the Rights of the Child. Article 40 of that convention specifically speaks to the fact that denunciation and deterrence should not be part of sentencing; they should be a last resort.

Honourable senators, in September we will be going to Geneva to try and defend this act because we are in contravention of the Convention on the Rights of the Child if this bill is passed.

• (2130)

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, before I begin my speech, I would like to add to the topic of criminal justice for young offenders.

I would remind honourable senators that the Quebec Court of Appeal heard a reference and the ruling was very important. It relied heavily on the fact that when we amended the legislation in 2002, we referred to that convention in the preamble. There is no way we can ask the courts not to refer to rulings that have been made.

Honourable senators, I will limit my comments to part 2 of Bill C-10, more specifically to the amendments to the Controlled Drugs and Substances Act.

As is the problem with many omnibus bills, I agree with only certain parts of this bill. For instance, I agree with part 1, the part Senator Tkachuk referred to. I have no problem with the constitutional phenomenon. That principle will ensure that the Parliament of Canada has proper jurisdiction to address this problem, as we have already discussed.

Unfortunately, since I have only 15 minutes to speak, I must limit my speech to part 2 of the bill, which has to do with the Controlled Drugs and Substances Act.

When Minister Toews appeared before the committee, he made the following comments, which are rather significant and, I believe, identify the real problem:

[English]

I, as well, do not get too hung up on the statistics. I am more concerned about whether there is danger out there.

[Senator Fraser]

[Translation]

You are probably wondering why I am referring to that quote. It is a way of introducing the worldwide phenomenon of drugs. I will come back to the letter from the global commission, which was sent to the Prime Minister and to each one of us.

It is important to bear in mind that when the minister talks about risk, he has decided that his worry was the risk: if there is a risk, I will take action. In my opinion, there is a risk. He and I do not agree on how to handle it, but there is a risk and it is serious.

Let us talk about the market. The following facts do not come from me. Senator Runciman referred to an organization earlier. The United Nations has an office that deals with drugs and crime, better known by the acronym UNODC. In its most recent report, this UN agency estimated the monetary value of drug trafficking around the world to be \$450 billion U.S. annually. This number represents \$50 billion more than international weapons trafficking. That just shows you the extent of the phenomenon.

Who benefits from this illicit market? It benefits organized crime, mainly drug traffickers, and helps them to diversify their activities. Organized crime, funded by drug trafficking, diversifies into weapons trafficking, human trafficking, piracy, and organ trafficking. Organized crime activities are funded mostly by drug trafficking.

Another growing phenomenon from this sum of \$450 billion is the funding of terrorism. Terrorist activities are increasingly being funded by this money.

I would now like to draw your attention to two countries. The first is Mexico. Mexico has replaced Colombia as the country where the main drug cartel activity is concentrated. It is the largest cartel. Over the past 20 years, Mexico has taken over from Colombian traffickers. To give you an idea of the scope of the Mexican cartels, they are comparable to large corporations on the stock market, like Apple, Exxon or HSBC. Moreover, these cartels work the same way. They are run using the same economic principles as completely legal companies: significant financial weight, sales figures, international presence, industrial structure, human capital used. All of these factors make them comparable to the large companies I just mentioned.

The difference is essentially regulatory. In one case, the legal companies and all facets of their activities are regulated. In the other, activities are regulated in the sense that they are prohibited and everything happens outside the rules. All the activity in their industry is carried out illegally.

The UNODC estimates that the value of the cocaine market alone is \$88 billion a year. The cocaine market in the United States is 41 per cent of the global cocaine market, or \$36 billion. Ninety per cent of the cocaine on the American market comes from Mexico, transits through Mexico or is transformed in Mexico. The Mexican cartels control 90 per cent of the cocaine going into the United States.

A researcher from the Independent Technological Institute of Mexico, Mr. Buscaglia, says that the Mexican cartels are now involved in 47 countries around the world, including the United States, Canada, European countries and Africa. They are involved

in 48 of the 50 American states. They have 235 wholesale centres throughout the world. Money from the Mexican cartels has infiltrated 81 per cent of the Mexican economy. All this money and this parallel market have created turf wars, all caused by economic one-upmanship.

Drug traffickers build their reputations by demonstrating their aptitude for violence. That is how this phenomenon began in Mexico. Over the past four years, there have been 30,000 violent, non-accidental deaths in Mexico. Over half of those 30,000 people, or 15,273, died violent deaths in 2010 alone.

The second country to which I would like to draw your attention is Guatemala, Mexico's neighbour. It is small compared to Mexico, yet it is more violent. It is a major producer of drugs, including cocaine, poppies and cannabis. Similar territorial battles occur in Guatemala.

Earlier, Senator Carignan was playing a little question and answer game. Do you know how many people are killed every day in Guatemala? The answer is 18. On average, 18 people are killed every day in Guatemala.

• (2140)

The homicide rate per 100,000 residents is 46, which is three times higher than in Mexico. Remember the 30,000 deaths over the past four years that I just mentioned? Multiply that by three, and remember that the population of Guatemala is smaller than Mexico's.

Two weeks ago, President Pérez, elected just last November, decided that his country would advocate legalizing drugs to undermine the cartels' power.

There is the threat. These cartels are already operating in Canada. British Columbia is a major producer. And the market for cannabis produced in Canada lies beyond our borders, most of it ending up in the United States.

The threats the minister referred to and that I just described are clear and present. They are not imaginary. They exist, and they are lying in wait for us. We do not have the murder rates of the countries I mentioned, but the possibility is lurking nearby.

That is what the Global Commission on Drug Policy told us. We know who the Global Commission is, and it sent us a letter a little earlier this week. I would like to quote two paragraphs in order to put into context the dangers that I mentioned with regard to Mexico and Guatemala.

[English]

As was the case with alcohol prohibition, evidence shows that increasing the intensity of drug law enforcement through mandatory minimum sentencing and other legal sanctions will not reduce the crime and violence associated with the cannabis industry. Instead, these laws will serve only to further entrench control of the cannabis market in the hands of violent criminals and waste precious tax dollars.

This has been the experience internationally. In fact, among the things that are driving organized crime and violence in British Columbia and other Canadian provinces is, although on a lesser scale, just what is driving the violence in Mexico — demand for drugs in the United States. Tougher drug laws in Canada will not address this root cause. At this late date, we hope that Canada will elect to adopt an evidence-based approach to controlling cannabis, in the face of overwhelming evidence that the proposed path through Bill C-10 is destructive, expensive and ineffective.

[Translation]

I would have liked to propose an amendment — which is why I voted against the time allocation motion — but our Rules prevent me from doing so following such a motion. In my amendment, I suggested removing any and all references to amendments to the Controlled Drugs and Substances Act from Bill C-10.

As I am sure you have gathered, that is why I will vote against Bill C-10, even though, unfortunately, I agree with certain other parts of the bill. For instance, I agree with some of the new offences in part 2. I have some reservations about the sentences, but I agree with the offences.

One honourable senator mentioned earlier the notion of courts that rely on substance abuse treatment. The Criminal Code already has a provision, in subsection 720(2), for such treatment. I want everyone to understand that Bill C-10 did not create this as an alternative. Judges already have recourse to this option. Do not imagine that Bill C-10 just invented it.

I agree with the conclusion of the Global Commission on Drug Policy, and to quote that commission:

[English]

The clear path forward to best control cannabis in Canada and other jurisdictions throughout the world is to move away from failed law enforcement strategies and to pursue a public health approach aimed also at undermining the root causes of organized crime. Canada has the opportunity to take —

[Translation]

The Hon. the Speaker: I regret, honourable Senator Nolin, that your time has expired.

Senator Nolin: May I have five more minutes?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Nolin: Thank you, honourable senators.

[English]

Canada has the opportunity to take a leadership role in implementing such policies. And it would be completely in keeping with Canada's global reputation as a modern, tolerant and forward-thinking nation.

[Translation]

Honourable senators, I truly would have liked the global commission people to have had the opportunity to address the Standing Senate Committee on Legal and Constitutional Affairs. I would have liked the committee to have heard from Canadian researchers who have influenced the work of the Global Commission on Drug Policy — and I referred to this research in a letter that I recently sent to each of you — Canadian researchers who have proven, after analyzing a number of international studies, that increasing enforcement efforts in urban centres leads to more, not less, violence. I would have liked the committee to have heard from these people, but it was not possible. The lists had already been drawn up.

For all these reasons, I will be voting against Bill C-10 and I encourage you to do so as well.

[English]

Hon. Elaine McCoy: Honourable senators, I am pleased to rise to speak to Bill C-10 today. The first thing I want to do is to congratulate the senators who have been debating these issues for several years. I did follow much of the committee work in this last go-round and was again very much struck by the civility of the exchanges between the hard-working members of that committee. I was struck once again by the demonstration that it is indeed possible to have a difference of opinion without actually hurling insults, demonizing one another's characters or labelling various invectives by some kind of colour. Certainly Senator Carignan, in a most amusing manner this evening, demonstrated once again the futility of imputing motivations and other labels to one another simply because we have a difference of opinion. I do congratulate everyone who has been involved with these many bills over the past several years, and I am pleased to see that good behaviour is being modeled.

I do wish to restrict my comments to one part of the bill only; that is the part that is dealing with controlled drugs and substances. I recognize there are many parts of Bill C-10 which are admirable. I regret that they are being brought to us in this one package, this one basket. I would have been pleased to support many of the provisions in the bill. However, I cannot support Bill C-10 because I think the sections on the Controlled Drugs and Substances Act are fatally flawed and that taints the entire bill. I simply cannot support those sections. There are two reasons for that, which I will get to. One of them has to do with what Senator Nolin has just been speaking of, and I will deal with that second.

• (2150)

The first has to do with what I believe to be the inability of the drafters of these sections, because even though this is the fourth time it has been before us, and even after all the good advice of all the witnesses and all the senators who have made various suggestions trying to improve this legislation; even after all that effort, there is still a fatal flaw in the drafting of this bill with regard to drugs, and that is that it has failed to make distinctions between a serious offence and a not-serious offence.

[Senator Nolin]

If the intention of the bill, as I believe it is, to address the evils that are brought about by serious offences had succeeded, then I think we would not have this debate. Had there been just a little more effort, or a great deal more effort, or if some of the advice of the witnesses and even of our own senators had been taken in the past four years, we would not be having this debate. Unfortunately, the bill as written is getting dangerously close to that old Dickensian time when people said one might as well hang for a sheep as a lamb, because that distinction has not been drawn properly. It bothers me, in a civilized country in the 21st century, that we, with all our grey hairs in this chamber and with all the experts who have been before us and with whom we have consulted, have not been able to get to that sophisticated level where we could make a distinction where a difference is warranted.

I spoke to a long-time constituent of mine who was a prosecutor for 25 or 30 years and asked for her opinion. Interestingly, she has moved into the private sector in the last two years. She is now defence counsel. She said to me, "Elaine, I am a better person for having done that." You have to understand that she and I have a very amiable relationship, but she is one of the most right-wing people I know. She lives in Calgary, so she is probably a supporter of many of the parties that have run successfully in Calgary over the years.

I must admit, to my chagrin, that I thought she meant that she was making more money. Well, it turned out that was not what she meant at all. She said, "As a prosecutor, I never dealt with the accused. I dealt with the accusations; I dealt with the police; I dealt with other prosecutors; I dealt with judges; but I never dealt with the individuals who were in front of us accused of one crime or another." She said that now, of course, she is dealing with them on a daily basis and she is spending a lot of time in remand centres and in prisons. She said she was totally appalled at what she discovered when she got into that position.

Her conclusion is that prisons are not the only answer or the whole answer, and jails do not do what we all wish they would do, in some part at least, and that is to rehabilitate. She tells me that she is a much better person because she is a more nuanced person and can now make distinctions where differences matter.

I have read a great deal of the evidence that has been brought before us and listened to all the arguments on both sides of the chamber this evening. I am impressed by the preponderance of what I will call expert opinion, professional experience, and I, therefore, will not support this bill.

When the Canadian Bar Association says that this bill will limit the flexibility required to resolve cases justly, that it will reduce the number of guilty pleas, that it will lead to more trials and more delays, and that it will require additional resources to prosecute and incarcerate more offenders, then I think we have not got it right, so I will not support it.

I am also impressed by what the Global Commission on Drug Policy said in its open letter to the Prime Minister. It is, of course, reflecting the global experience, which is what Senator Nolin was talking about. In truth, this is a debate we really should be having

removed from Bill C-10, because I think this is an emerging issue on many people's consciousness. I think that public opinion is changing and will change in Canada on this aspect. We have to start thinking beyond this war on drugs. The war on drugs has failed; there is no doubt about it. Experience has shown that. Even though you throw more money and more drug enforcement agencies at it and throw more people in jail, it is failing. It is just like prohibition in the 1930s. We have created one of the most lucrative industries in the world, and it is called "illegal drugs."

This may not be a concept that many people feel comfortable with. Again, there is probably a nuanced approach to this. Certainly I would rank marijuana as an easy entry into this issue, and we should perhaps spend some more time debating drugs like heroin or cocaine.

I am pleased to follow Senator Nolin in this debate, because in 2001 he chaired our Senate committee that put out a report on marijuana. It recommended that we take it out of illegal status and regulate it properly so that we are able to determine when and how it will be used, and we remove it from the temptation of drug cartels, youth gangs or whatever. That would remove all that temptation.

The huge profit that is being made in grow ops now is one of the factors that is pushing the violence and criminal activity in British Columbia, Alberta, and every other province in this country. It is time we had a look at this much bigger issue to determine whether it is time that we stop trying the same old responses to the same old problems, which is just making the same old problems even worse.

That is the fundamental fatal flaw underneath all of the other debate that is hindering the approach to controlled drugs and substances. I would hope that we would encourage Senator Nolin to lead another inquiry or another committee to update our knowledge base on that issue. I think it is high time we did so.

In the meantime, I am sorry not to be able to support so many of the very good pieces of this bill, but I do congratulate everyone, including Senator Watt, who has been indefatigable in attempting to bring a slightly more sophisticated approach to these thorny problems.

Hon. Larry W. Campbell: Honourable senators, I rise today to speak on Bill C-10, the safe streets and communities act. Before I start, I will have to invite Senator Nolin and Senator Runciman to the province of British Columbia so that I can show them that, on Galiano Island at least, we are safe and that the crime rate has not risen substantially over the past few years.

As I have stated previously on many occasions, this legislation is not good for Canada. Like many of the speakers, I am saddened that I cannot vote for portions of this bill that I support wholeheartedly, including the portion on terrorism.

• (2200)

This bill is grounded on ideology and political bias. The manner in which all scientific evidence to the contrary has been blatantly ignored while the government has pushed this bill forward has, quite frankly, been nothing short of ridiculous.

One would think that our government would objectively examine the mountain of evidence which shows that this will not create safer streets and communities. This evidence indicates that Bill C-10 will accomplish a number of other things that are not quite as positive, such as benefiting organized criminals and sending the wrong message to drug traffickers, wasting taxpayers' money and precious police resources, as well as over-filling already crowded prisons and putting additional pressure on already strained court systems.

We do not have a real assessment from the government on what exactly this bill is going to cost. I understand that, because it is like looking into a crystal ball and trying to figure out what will happen down the road. However, rest assured, we do know that there will be a financial impact. If we go by what is happening in the United States, we know that when they started their mandatory minimums they estimated that the cost would be \$55.2 million over five years. In fact, it was \$3.216 billion — 58 times the original estimate over the same five years.

We also know that the prison system in the U.S. is currently 38 per cent over capacity and we also know that states such as California have faced bankruptcy due to mandatory minimums filling up their prisons.

This bill does nothing to address the underlying causes behind drug crime in Canada, which will inevitably only worsen the situation for our already marginalized citizens. Our prisons are already disproportionately filled with specific populations such as Aboriginal people, the mentally ill and women.

The Correctional Investigator of Canada, Howard Sapers, has come forward saying that the legislation will worsen this problem and the Canadian Psychiatric Association has stated that this bill will exacerbate issues relating to the "warehousing" of prisoners as a last resort when treatment is not available to them.

One witness from an advocacy group representing the First Nations in Manitoba aptly summarized the negative effect this bill will have on First Nations, when he told the committee that:

Bill C-10 will perpetuate the cycle that often begins when First Nations children are removed from their families and mothers and placed in foster care. Our children are more likely to be placed in youth detention centres and to wind up in jail as adults. . . .

Bill C-10 will further the legacy of the Indian residential school system in Canada.

I will not plow this fertile field for any great length of time, and I am not going into the deeper problems related to prohibition, because I believe Senator Nolin spoke about that very eloquently.

The people who are advocating change here are politicians who live in countries that are directly affected by the supply and demand system created by the United States and their insatiable demand for drugs. That is the problem. It is an economic issue, and so we see Colombia, Guatemala and Mexico, and we will see the rest of Central America and South America joining into this and recognizing that they cannot stop this. They cannot stop the

drugs from coming from their country as long as the demand is there. We know, because of the monies involved here — the huge amount of monies — and the poverty involved in many of these countries, that it is just irresistible. They cannot stop and it escalates gang violence and contributes heavily to drug-related deaths.

According to a 2011 report of the Global Commission on Drug Policy — and I think this is important because in Vancouver we had a huge increase in HIV due to drug transmission among intravenous drug users — many countries that have relied on repression and deterrence as a response to increasing rates of drug-related HIV transmission are experiencing the highest rates of HIV among drug-using populations.

The supervised injection site opened in Vancouver and clean needles were supplied. The HIV rate and the hepatitis rate dropped and they have continued to drop to this day.

There is more to drugs than simply enforcement. There is prevention, there is harm reduction, and there is treatment. In this country we are not giving proper focus to the other pillars involved. In fact, this government denies harm reduction, period. It is not mentioned anywhere in their drug policy.

Conversely, countries that implemented harm reduction and public health strategies — i.e. Canada — have experienced consistently lower rates of HIV transmission among people who inject drugs.

Witnesses from our own police associations are telling us that, while this bill is measured, in and of itself it will make no difference. According to the representative from the Canadian Association of Chiefs of Police, sentencing is not the silver bullet that will bring us out of this. We will not arrest our way out of this problem. We will not incarcerate our way out of this problem. We have to approach this with a balanced approach across all of the continuums. Bill C-10 is part of that balanced approach. On its own, though, I fear it will make no difference.

Additionally, the arbitrary numbers included in this bill are not grounded in any real evidence and only serve to motivate small-time crooks to expand their operations. I do not want to go into any detail here for fear that honourable senators may think that I have learned this from something other than books and police experience, but when you put in a scale of 6 to 200 plants, and I am looking to make some money, I am not going to grow 6 plants and get 6 months. I will grow the 200. If you make it 200 to 500, I will not do the 200 either; I will do the 500. If you go to 1,000 and give me a deuce less a day, that is where I am going, because that is where the money is. Instead of a disincentive here, we have said, “Well, 6 will get you in trouble, but you are not going to get any more for 200.”

The fact of the matter is that, as a police officer, I do not care what the number is. You can be a trafficker and only grow 6 plants. You would be a stupid trafficker, and I probably would not spend much time chasing you around, but you could do that. I, as a police officer, could investigate, and I could get the evidence, and I could take you to court, and I could get a conviction.

Numbers mean nothing, other than giving you lazy police. Why would you have to work at it? Find 200 plants and I would just take you and drive you. I could convict you of possession for the purpose of trafficking. No work, or very little work.

We should not be using numbers when it comes to setting criminal standards. Often they are way too low and, at the end of the day, the sentences that go with them do not mean anything.

In a recent article published in the *Ottawa Citizen*, Eric Sterling, who was a key player in the drafting of the U.S. federal mandatory minimum sentencing laws, stated that the quantities of plants identified for various minimum sentences in Bill C-10 are ridiculously low and suggest that most federal politicians have no understanding of the structure of the criminal industry they are trying to curb.

In the last incarnation of this bill, those who are on the committee will remember there was a criminologist from the University of the Fraser Valley. I said to him, “We are both from British Columbia. What do you think would be personal?” He said, “Well, I do not know. What do you think would be personal?” I said, “I do not know. One hundred plants?” He said, “One hundred plants?” I said, “Well, you have Christmas, New Year’s, Hanukkah, Easter, birthdays, weddings, and funerals. By the time summer rolls around, there would be nothing left.” He said, “Well, I might go with 30.”

How do we know what the numbers are? We do not. It has to be proven.

Honourable senators, if scientifically-based research, hard facts or warnings from subject matter experts are not enough to sway this government, then surely the negative outcome of similar policies in the U.S. would cause them to reconsider. It is not that we are becoming the United States when it comes to our criminal justice system or our penal system. They are going the other way. They realize how much grief they have on their hands, what it costs to society, and what it costs in money. We are way beyond them; we are going in the opposite direction as they are coming out of it, and we do not seem to learn.

• (2210)

This government is blatantly ignoring recent events in the United States that clearly show how flawed this type of approach is. I have to say right now that I am not against all minimum sentencing. If it was the Liberals that passed it, then they were probably wrong too. I am not against all minimum sentencing. All I am saying is that if you are going to do it, there has to be a reason. It has to be proven, and there has to be real evidence that it will make a difference.

In addition, the government is turning a deaf ear to pleas from legal and judiciary experts in the U.S. who urge us not to make the same mistakes. I ask you, when are you ever going to see politicians from the United States apologizing? It does not happen. They know how bad this is. They know how much trouble they are in.

A letter recently signed by over 25 experts, including judges, lawyers, police officers and drug investigators, stated that when it comes to harsh minimum sentences for offences dealing with marijuana, these policies have bankrupted state budgets, as limited tax dollars pay to imprison non-violent drug offenders at record rates instead of to run programs that can actually improve safety. Many American states and districts have since reversed their policies, and 14 states are currently moving towards decriminalization of marijuana possession.

In closing, honourable senators, there is just an ignorance in the drafting of this bill. It has no common sense to it. Scientific evidence, common sense, and recent history all tell us this bill will not accomplish its goal to create safer streets and communities. In fact, it could make them worse.

To quote Mr. Sterling one last time:

Countless lives have been ruined due to incarceration and criminal records for non-violent drug offences. Based on this irrefutable evidence . . . I can see only one reason why Canada's federal government and some provincial governments would want to go down this wasteful route: the belief it is good electoral politics to parade as tough on drugs or crime.

This is neither tough on drugs, nor tough on crime. Ten years from now, we will be here taking a look at this and reversing it.

The bill is not in the best interests of Canadians, and I cannot support its passage. Thank you.

The Hon. the Speaker pro tempore: I think Honourable Senator Martin had a question. Honourable Senator Martin, did you have a question?

Senator Martin: Yes, I have a question for Senator Campbell.

With all due respect, I am a Vancouver resident. When the honourable senator was mayor, I lived in Vancouver. I still am there. What do we say to the Chinatown Merchants Association who, because of the drug issue and the problems that exist in our city, are faced with trying to protect their cultural legacy, 125 years in the city? What do we say to a young boy by the name of Trenton, about whom I spoke in Abbotsford, who lived on the same street as the infamous Bacon Brothers? Jonathan was killed last summer. He was a student of mine in grade 11. Trenton lived on this street and was held captive for months. The police resources in Abbotsford were exhausted because they had to somehow protect the criminals. His friends could not visit. He did not understand, and he spoke so passionately in his speech. What do we say to Eileen Mohan, one of the mothers of the victims in the Surrey Six case? She had only one son, and he was killed.

I understand that there is science and that there are experts and statistics, but I think about the victims and about so many innocent and law-abiding Canadians who need protection. My question to the honourable senator is this: What would we say to these victims and the families who are impacted so directly and so seriously?

The Hon. the Speaker pro tempore: Honourable senator, before you reply, your allotted time for speaking has expired. Are you prepared to ask the chamber for more time to give a response to Senator Martin?

Senator Campbell: Yes.

Some Hon. Senators: Five minutes.

The Hon. the Speaker pro tempore: Five minutes. Proceed.

Senator Campbell: For 20 years, I spent my life dealing with dead people, and, for 20 years, I spent my life dealing with victims. Someone said here today — I believe it was Senator LeBreton — “Who would possibly wish to walk in Senator Boisvenu’s shoes?” I agree totally. There is nothing I can say, nothing I can do.

In answer to the Chinese question, when I ran for mayor, I went to them and told them I was going to put in a supervised injection site. I promised them it would not be in Chinatown. They voted for me. That is all I can say. Chinatown has always been under pressure in Vancouver because of its location. I support it totally. The Bacon Brothers and gangs like the Bacon Brothers are a product of our society. They are a bunch of sociopaths and losers who got together outside of high school. They got together and, by violence and probably with a lot of steroids going on board, have turned into this issue.

What do I say to the people who live on their street? I do not know. I have no answer to that. The Surrey Six is exactly the same thing. There is no way to say to someone who has lost a loved one that there is an answer out of this.

Would putting the Bacon Brothers in jail for the rest of their lives make me happy? Absolutely, no question about it. However, this is still part of society, and we have to deal with it. We cannot deal with it by saying, “Just lock them up, lock them up, lock them up.” British Columbia does \$7 billion a year in the trade of marijuana, unregulated and untaxed. I say tax the hell out of it. Take it away from the gangs, and they will go to something else. Do not ignore it. Take it away from them and make them go somewhere else.

I feel for victims. As I said, for 20 years, I spent my life, on a daily basis, talking to people who had lost loved ones, and I have to tell you that I never got very good at being able to answer their questions.

[Translation]

Hon. Pierre-Hugues Boisvenu: Honourable senators, it is with high emotion and great satisfaction that I speak to Bill C-10 today.

I am speaking not only as a member of the Standing Senate Committee on Legal and Constitutional Affairs, but also as a representative and defender of victims’ rights in the Senate of Canada.

From the outset, I would like to thank and acknowledge the impeccable work of the chair of the committee, Senator Wallace. His great objectivity and diligence allowed all the witnesses who

appeared before the senators in committee to deliver their messages with confidence. For the senators who sat on this committee — a privilege that I share — he allowed us to do our work as responsible legislators with great serenity. I want to express to Senator Wallace my admiration for his work, which was not easy.

I want to commend Senator Fraser on her leadership with regard to the group opposite. She did excellent work. At times I even thought she was closer to our side.

I want to thank all the senators who sat on the committee and studied the bill very closely. I thank them for listening to the victims and the victims' groups who came to testify.

• (2220)

Never have so many victims of crime come to testify about a bill — it was a first in the history of the committee. We had a very good balance between victims who came to tell their stories and those who were defending the part of the system that manages our criminals. Victims decided to speak out and, my goodness, I sometimes get the impression that the fact that they are speaking out is shaking things up. It is shaking up a system that has not been disturbed for 30 years.

To all these victims, I say bravo. Bravo for breaking the silence. Bravo for having the courage to come and tell us about your experience with the justice system. And thank you for your support.

Honourable senators, since I arrived in the Senate, I have been travelling the roads of Quebec and New Brunswick to explain the measures set out in Bill C-10, which have been the subject of much discussion here in this chamber and in the other place. For almost two years now, I have been explaining most of the measures that have already been examined.

This week, a scientifically irrefutable survey showed that the majority of Quebecers are in favour of the measures set out in Bill C-10. This Quebec majority in favour of our bill is a true departure from the picture of opposition painted by the Quebec media. This explains why Bill C-10 has been so demonized and so strongly criticized and condemned, particularly in Quebec.

[English]

By whom has it been done? Not by the victims, not by the stakeholders, not by the majority of the population who are actually in favour of the bill, as the latest survey done by Focus Research proved a couple of days ago. The bill has mostly been criticized by certain media that are deliberately involved in a campaign of misinformation.

[Translation]

As proof, honourable senators, I have two examples drawn from the profusion of information conveyed by the media, information that deliberately distorted the scope of Bill C-10 and, by association, the Conservative government.

[Senator Boisvenu]

The first example is drawn from legislative measures intended for youth. According to some media outlets and those defending the status quo, Bill C-10 was going to destroy the Quebec youth penal justice model, and convicted youths could find themselves in prison before the age of 18 if they received an adult sentence. The Conservative government wanted to put children in jail. "Children," they said. Bill C-10 will affect just three per cent of youth convicts in Quebec, because the province will retain the power to apply the measures in Bill C-10 to young people aged 16 and 17.

The fact is that for 97 per cent of young offenders in Quebec, nothing about the system will change. The Quebec model, though questionable in terms of its performance as measured by Canadian crime statistics, remains intact. In Quebec, the under-18 crime rate dropped between 2000 and 2005, then surged by 12 per cent between 2006 and 2010. The troubling thing is that the most dramatic increase in crime, 30 per cent, was among 12- and 13-year-olds.

My second example has to do with tackling criminals who sell drugs, particularly those who sell in schoolyards. The organized misinformation media reported that those who get caught selling a few pot plants will automatically receive a prison sentence. That could not be further from the truth. The bill is very clear about that. The bill is about drug trafficking, not simple possession.

[English]

These are the perfect examples of false allegations that needed to be fought throughout the progression of the bill.

[Translation]

But it gets worse. An unacceptable, shamelessly partisan, socially irresponsible attitude among professional organizations, and some professionals and individuals practically amounts to institutional tyranny. It was evident among certain legal pundits and defenders of the status quo.

In recent weeks, things have not been easy around my office, and it was hard to stand up and defend the bill a majority of Canadians want. They tried to silence me through personal attacks made in public, by sending threats to my office, and by denying my right to speak based on the fact that I am not an elected member of Parliament. How is it that the media are the most vocal supporters of free speech, and yet these very same media told me to keep quiet?

A society where everyone does not have the right to speak is a dictatorship.

Marc Bellemare, a defence lawyer for victims of crime, gave a good explanation when he appeared before the committee. "Who do the Barreau du Québec and the Canadian Bar Association speak for?" he asked. For a small group of lawyers, he confirmed. Mr. Bellemare told the committee that he had never been consulted about the position taken on Bill C-10 by the Barreau du Québec or the Canadian Bar Association, to which he belongs. And why did dozens of lawyers, who I met in person, call my office to say that they support Bill C-10, but could not speak publicly about it?

We never gave up.

[English]

We never gave up. We know that Bill C-10 is a good bill. All victims know that it is a good bill. We made a promise to all Canadians and we support this bill.

Some Hon. Senators: Hear, hear!

[Translation]

Senator Boisvenu: Throughout the week, members of the committee heard testimony from several individual victims, representatives of victims' advocacy groups, the Federal Ombudsman for Victims of Crime, police chiefs and professionals who provide services to victims of crime.

I would like to share with you a few passages from their testimony.

Lianna McDonald, Executive Director of the Canadian Centre for Child Protection said:

In today's society, children and youth are connected to a technological world that allows unprecedented access to them, and this largely unsupervised playground has opened the doors for adults to take advantage of them. These two new provisions are necessary and would greatly assist police in their efforts to charge individuals and better protect Canada's children.

Sheldon Kennedy, a former NHL hockey player, said:

[English]

I think there is a difference between being offered treatment and actually doing it. A lot of offenders and a lot of criminals are offered all kinds of programs, but they do not have to do it. I know Graham did not do it.

[Translation]

Sandra Dion, a police officer from Quebec City and herself a victim of crime, said:

As a victim, I see Bill C-10 as another small step in the right direction towards restoring victims' trust in the criminal justice system, because the purpose of the bill is to enhance public safety. For me, this bill represents the dawn of a new era in finding the balance between the rights of victims and the rights of offenders.

These statements reveal that victims of crime and their advocates unanimously support Bill C-10, which enshrines in the legislation the demands that they have been fighting for for decades. Victims want to have a stronger voice at National Parole Board hearings. They want greater access to the records of their perpetrators. They want the perpetrators of crime to pay a price that is proportional to the crime committed.

[English]

Yes, the actual legislation contains minor administrative measurements concerning victims of crime.

[Translation]

This is the first time that a government, our government, is going to recognize victims' rights and enshrine them in law once and for all.

Honourable senators, Bill C-30 will make up for 30 years of laxness and liberalism in our justice system, which has far too often favoured the criminal over the safety of victims and Canadian families.

Honourable senators, I also want to mention that all the victims of crime who testified before our committee thanked the Conservative government. They feel as though they have finally been heard, recognized and respected.

• (2230)

As one victim said:

This bill will heal our wounds. A new era has begun, one of respect for the victims of crime by our justice system.

Many witnesses talked about how frustrating it is for victims to see criminals get lenient sentences. Their concerns are legitimate and go beyond the scope of federal jurisdictions. Bill C-10 is going to mitigate those frustrations.

The reality of the victims of crime is multi-dimensional because it encompasses the administrative and political responsibilities of various levels of government in Canada. The victims no longer want to be excluded from the justice system. It is important to involve them in developing policies and programs for victims organizations, with decision makers from various levels of government and the private sector. All the victims told us that effective measures for helping victims have to go beyond penal intervention.

As a result, perhaps the time has come to initiate a dialogue to address the overall challenges faced by the provinces, territories and the federal government in order to support victims of crime in Canada.

In this regard, I invite all the justice ministers across Canada to permanently add this topic to the agenda of their annual meetings. In 2012, in this magnificent country we call Canada, should not the victims of crime, as well as criminals, be treated equally and fairly from sea to sea?

The members of the Senate committee were deeply moved by the testimony of victims who are experiencing life-altering consequences as a result of the sexual crimes committed against them by people who were in a position of authority over them, most often when they were children.

Despite the fact that this bill will impose harsher sentences for these heinous crimes, we must consider more severe punishments for serial sexual predators. The bill should go further. According to these victims, Bill C-10 does not go far enough.

Many victims are seeking a balance between victims' rights and offenders' rights. The victims mentioned that finding a balance is not a question of revenge but, rather, a quest for a just and safe society, not only for them and their families but also for the entire population of Canada.

This is the recognition that we are giving them today, the promise that we are fulfilling, and the commitment that we are keeping: to pass Bill C-10.

I would like to end my speech with two testimonies that provide a very good explanation of how Bill C-10 will establish the desired balance between the safety of our communities and the rehabilitation of offenders.

The first quote is from Éric Bergeron, a psychologist who works for the Correctional Service of Canada and who serves as an expert witness for the Quebec criminal court. He said:

For some offenders, repression is the most useful form of rehabilitation. These are young people who, from a young age, are highly criminalized and who have psychopathic personality characteristics — individuals for whom all research clearly indicates that interventions are ineffective.

[English]

The Hon. the Speaker *pro tempore*: Would you like to ask the chamber for an additional five minutes?

Senator Boisvenu: Please.

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Continue.

[Translation]

Senator Boisvenu:

In such cases, the lenient sentences they receive at the beginning of their career are not only ineffective, they teach the offenders more about crime . . .

Those who believe that repression precludes rehabilitation are incapable of understanding that before rehabilitation can take place, individuals who express no remorse or regret for their actions must be punished for their crimes. Punishment is essential to setting clear limits for people who have never had limits or who have used violence to wipe out those limits . . .

Repression and rehabilitation are two equally important approaches to a long-term solution to the problem of crime. As a society, we are sure to win once we stop thinking inside the box.

Yes, honourable senators, there are things we can do to reduce crime. There are things we can do, and Bill C-10 does them.

The second quote comes from Isabelle Gaston, an emergency doctor specializing in the treatment of sexually abused children and the mother of two children who were recently murdered:

At the end of the day, for society to be the real winner, I believe that we must focus just as much on the victim as on the aggressor, because we do not tally up the cost when, 20 years later, we treat the victim who has attempted suicide. The punishment must be the start of rehabilitation for both. Unfortunately, at this time, there is a real imbalance between the criminal and the victim.

The victim must be protected, heard, believed. Victims need to have a place in our justice system. We must stop setting rehabilitation against punishment. I sincerely believe that the best solution will combine both options.

Honourable senators, give a voice, your voice, to all the victims, all the families of victims who for too long have been unfairly relegated to the prison of silence.

In that way, the power you have to pass Bill C-10 will henceforth be the power that gives meaning to their tragedy, their hope, their life.

Thank you.

[English]

Hon. Art Eggleton: Honourable senators, I first want to draw your attention to a petition that I received at noon hour today. It is signed by 51,950 Canadians, and it was organized through Leadnow. It is in opposition to Bill C-10.

I also want to comment on Senator Carignan's amusing quiz. I am beginning to think that the government has a real inferiority complex. It has to refer to the Liberals all the time to justify its own actions.

One thing that needs to be remembered out of all of this is that the evidence is changing. The evidence that existed in 1892 or 1922 or even just three years ago is different from the evidence that exists today. When a government, whether Conservative or Liberal or any other political stripe, makes a decision, they make that decision based on the best evidence that is available at the time. At least, I hope they do. Some people would think it is more ideological, but I would hope we would make decisions based on the evidence at the time. We are getting more and more evidence all the time that says that bills like Bill C-10 are going in the wrong direction, particularly as it relates to mandatory minimums on minor crimes.

This bill goes against what other jurisdictions are telling us and what we are learning particularly from the United States. It focuses on punishment and not on crime prevention. It focuses on prisons and not on community safety. That, I think, is the wrong direction.

I am not going to go through all the different parts of the bill. It has some good points and it has other flaws. I want to focus on two things. The first is the mandatory minimums, especially for minor marijuana offences, not the big offences that some people have talked about on the other side; and the second is the disproportionate effect this bill will have on some of the most vulnerable people in our society.

[Senator Boisvenu]

I say that if you want appropriate penalties for offenders, then judges are in fact the ones we want to make the decisions. Based on the facts of a case, a judge crafts a sentence that achieves a balance between what the offender deserves and what the community needs, between the criminal and the victim. They are well trained to do this. They interpret the law, and they apply justice in a fair and just manner. I have confidence in them. If a judge believes that the offender is a danger to society and should not be let out, then lock them up. However, it also could mean giving the offender a second chance at life.

Their decisions, of course, can be reviewed. If the prosecution does not like the outcome of a case or does not like the sentence that was handed down to an offender, there is an appeal process by which the case can be reviewed. This ensures that we have an open and transparent system, a system, by the way, that has served this country well for 143 years.

• (2240)

However, this bill would not only limit a judge in devising what is an appropriate sentence, according to the Canadian Bar Association, it would “limit the scope of appellate review where a clearly unfit sentence has been imposed.” They go on to say that a one-size-fits-all approach to every offence, regardless of the fact situation or the individual involved, could lead to unjust and disproportionate results. I repeat, can lead to unjust and disproportionate results. Those are startling words coming from a very prestigious organization.

Second, honourable senators, mandatory minimums, in many cases, simply do not work. As lawyers, judges and criminologists have pointed out repeatedly, there is little empirical data that shows mandatory minimums are effective in specific and general deterrence. Perpetrators generally do not consider the penal sanction before committing a crime. Instead, people will commit minor crimes and because of many of the new mandatory minimums, they will be left to languish in prison and to come out a worse criminal, all at the great expense of the taxpayer and without adding anything to public safety. They eventually do get out. If they come out worse, that is worse for the population, is it not?

In 1999, researchers at the University of New Brunswick examined 50 studies on recidivism that covered more than 300,000 offenders. Considering other factors such as an inmate's criminal background and age, they found that the longer someone spent in jail, the more likely they were to commit another crime when they got out. There is the research and the evidence. The researchers found the impact was most significant for low-risk offenders, suggesting prison may indeed be a school of crime that makes people worse, not better.

Also, honourable senators, we recently received advice from our neighbour to the south that has a long history of mandatory minimums. We have heard this before but I will repeat it again, 28 current and former U.S. law enforcement officials signed a letter telling us how wrong this direction is. Why would they do that? They are doing that to be helpful because they have recognized what has happened in their own jurisdiction. They stated:

... incarceration and criminal records for non-violent drug offenders have ruined countless lives. Based on the

irrefutable evidence, and the repeal of these mandatory sentencing measures in various regions in the United States, we cannot understand why Canada's federal government . . . would [go] down this road.

When they refer to ruined lives, it is not just the lives of some of the people who end up incarcerated, but it is their families and children as well. So many other people are affected by this.

In many U.S. states, honourable senators, mandatory minimums have left them bankrupt, and many states are now repealing their mandatory minimum sentences for minor drug offences. That little mention of the fishing trawler that takes so much in with its dragnet, yes, it takes in some big fish, and I know that is what honourable senators across the aisle are saying. It is the big fish they are after, but remember those nets also take in a lot of little fish, too. Once they are charged, they will be put through the process.

Honourable senators, the second major concern I have with this bill is that it will unfairly target the most vulnerable amongst us, specifically those in poverty. While all those who live in poverty are by no means associated with crime, the numbers simply do not lie. More than 70 per cent of those who enter prisons have not completed high school; 70 per cent of offenders entering prisons have unstable job histories. Four of every five arrive in prison with serious substance abuse problems, and if you do not factor in substance abuse, approximately a quarter of all individuals admitted to federal prisons show signs of mental illness.

Aboriginal peoples comprise 2.7 per cent of the adult Canadian population, but approximately 18.5 per cent of the adult offenders now serving federal sentences are of Aboriginal ancestry. The Correctional Investigator notes that 35 per cent of Aboriginal offenders report poverty in their background. In the area I come from, the Greater Toronto Area, neighbourhoods with the highest levels of incarceration are those with lower incomes, higher unemployment, more single-parent households and lower education. As one provincial judge wrote, and this is an interesting quote:

Poverty is the first fuel that drives crime. It becomes mixed in with the destabilizations of families, widespread substance abuse, child abuse, sexual abuse and domestic violence . . .

One problem begets another problem, as he clearly points out.

Instead of spending billions on mega-prisons to house all those new offenders and perpetuate the problem, we would be better off investing that money into comprehensive childhood development initiatives, affordable housing, youth mentorship programs, at-risk youth initiatives and rehabilitative programs. These programs have been proven to reduce poverty and crime. Steps like these will help reduce the growing income gap in Canada while at the same time giving people the opportunity to have a better life.

With a commitment to programs like these and an understanding that rehabilitation is more important than incarceration, we can create a Canada that is full of people who will be given every opportunity to succeed, will be less likely to commit crimes and more likely to become active contributors to our economy and society.

Hon. Linda Frum: Honourable senators, as a member of the Standing Senate Committee on Legal and Constitutional Affairs, I too want to take this opportunity to express my appreciation to our chair, Senator Wallace, and our deputy chair, Senator Fraser, for their efforts ensuring that we held thoughtful and respectful hearings on Bill C-10. I would also like to thank all of the witnesses for their compelling commentary, insight and perspective. The many different viewpoints allowed for a thorough understanding of the bill and its effects.

Over the first three weeks of February, the committee attended more than 100 hours of testimony. In addition to becoming much more knowledgeable about Canada's Criminal Code than I ever hoped to dream, I was also fortunate to spend so much quality time and late nights with my colleagues on both sides of the aisle, not unlike tonight.

One of the greatest responsibilities we have as a government is to protect Canadians and to ensure that those who commit crimes are held to account. Bill C-10 is a multi-faceted approach to ensuring the safety of Canadians and to increasing confidence in our Canadian justice system. This bill delivers by implementing harsher penalties for those involved in the types of crimes that erode our communities and the moral fabric upon which they are built. Bill C-10 allows both for justice to be done, as well as for justice to appear to have been done.

A significant tenet of Bill C-10 is the protection and consideration afforded to the people most directly affected by crimes — the victims. This may seem trite, but in discussion with an array of witnesses, it became startlingly clear that the role of the victim in the criminal justice system has been neglected. Bill C-10 increases victim involvement in the correction process, increases victim awareness of the status of assailants and aims at being harsher on crimes to preclude victimization overall.

Throughout testimony, we heard from victims advocate groups, including parents who had lost children to heinous crimes and to victims themselves. I would like to thank and congratulate the courageous witnesses for sharing their stories. Their insight is very much appreciated. Unfortunately, it illustrated areas that have long needed improvement.

As noted by Ms. Sharon Rosenfeldt, President of Victims of Violence and the Canadian Centre for Missing Children:

... there is a widely held sentiment that the criminal justice process has left victims and their families behind and that our laws have failed to keep pace with the reality of serious crimes ...

The victims of crime need to feel confident in the system meant to protect them and they need to feel safe in their communities.

Bill C-10 tackles this problem head on in several ways. The first is the punitive sanction that is provided for in legislation. Second, it allows victims to be part of the process. The third area is the

options created for victims by the bill, such as the civil cause of action in Part 1 of the bill. According to Ms. Rosenfeldt, improvements in these three areas will help with the feeling of restoration. Furthermore, this will enhance feelings of overall community safety.

• (2250)

The response of Bill C-10 goes directly to concerns echoed by advocates such as, again, Ms. Rosenfeldt:

When victims say there is no justice, they are referring to sentencing. It is very upsetting to them not to be involved with the criminal justice system and not to be respected by the police and Crown.

All of the victim advocates testifying before us supported the imposition of mandatory minimum sentencing for the selected offences for this very reason.

Based on the representation of some in the opposition, it may appear that Bill C-10 either invented mandatory minimum sentences or is implementing widespread mandatory minimums throughout the Criminal Code. These insinuations are both very misleading.

First, mandatory minimums are currently in place for a variety of offences throughout the Criminal Code, and they have been in existence since the enactment of the first Criminal Code in 1892.

Second, Bill C-10 only alters mandatory minimum sentences to a number of specific prescribed offences that are either dangerous sexual offences mostly targeted at child victims or drug-trafficking offences. To the latter point, Canadians are rightfully concerned about the fact that in 2010, child pornography offences were up by more than 30 per cent, and drug crimes have been rising since the 1990s. Canadians want answers.

Another contentious assertion has been that Bill C-10 and mandatory minimums would greatly increase the number of people in jail and bog down the justice system. In all the testimony heard, no evidence was presented to support this notion beyond the hypothetical. The presumption of such an assertion would be that Bill C-10 involves a significant broad overhaul to the current Criminal Code for a variety of offences.

Again, Bill C-10 does not target a wide array of offences but specific dangerous sex offences and drug offences involving trafficking and aggravating factors. Thankfully, these offences are somewhat rare due to their seriousness; however, they need to be treated drastically.

As noted by Ms. Rosenfeldt:

One in five police-reported crimes are considered violent, and three in ten instances of victimization reported by the 2009 General Social Survey were of a violent nature. These may represent only a small percentage of crimes; however, they represent the most grave and serious offences and as such should be sentenced accordingly.

Therefore, Bill C-10 targets a small number but a significant class of offences. The allegations of uncontrollable dockets and vast increases in trials have not exceeded conjecture. Furthermore, I am one of the many Canadians who have difficulty understanding the problem with ensuring that the types of offences targeted by Bill C-10 receive strict jail sentences.

The criminal behaviour targeted by Bill C-10 needs to be deterred and very clearly denounced by Canadian society, and to those who suggest that deterrence is an unachievable goal, I say these dangerous predators need to be incapacitated and precluded from doing greater harm to the vulnerable people upon whom they prey.

Regarding the need for reform in the area of sexual assault laws, Ellen Campbell, CEO and founder of the Canadian Centre for Abuse Awareness, pointed to the horrifying reality that:

... victims do not come forward because they know it will be a very minimum sentence that the perpetrator gets, and it is just too difficult when they go through that difficult situation and they know they will get off.

She added:

I think people see Canada as being soft on crime, specifically these crimes.

Mandatory minimum sentences for prescribed sex crimes target this very issue to ensure that our victims suffer no more than they already have and help to ensure that these crimes never occur in the first place. Sexual offences against children have no place in our society.

There was a recent case senators may recall in British Columbia where a young person videotaped an alleged gang rape. This individual received a sentence of one year probation plus the requirement that he write a 1,500-word essay.

Mr. David Matas, a lawyer with the human rights advocacy group Beyond Borders, noted to our committee:

Within our own organization we were dismayed by that sentence.

Mr. Mark Allan, Director of Public Safety for the Canadian Centre for Abuse Awareness testified that:

Many crimes can be prevented. Abuse and exploitation of children is a very hard crime to prevent because so much of it happens behind closed doors, much like domestic abuse. At least in domestic violence we have the opportunity to educate adult women as to how to they might be able to escape their abusers. When we are talking about children, it is very difficult.

When it is a hard crime to prevent, we have to separate the abusers from their victims or potential victims, and that is where mandatory minimum sentences come in.

Bill C-10 embraces the terrible reality that sexual offences against children are distinct and the most dangerous and reprehensible crimes of all. They require a distinctive approach to encourage their prevention.

In the view of some witnesses and committee members, the mandatory minimum sentences could even be higher for these offences, but those contained in Bill C-10 are at least sufficient to send the message that such events will no longer be tolerated by our courts.

Unfortunately, in the absence of these harsher penalties, existing jurisprudence suggests that our courts are indeed sometimes inclined towards tolerance. When a young man who has distributed the video of an alleged gang rape he filmed is given probation and an essay, which probably does not even rival the length of his English homework, it is clear there is need for reform.

After hearing the courageous testimony of victims and victims' advocates, it becomes stunningly clear that the justice system needs to crack down in this regard.

Bill C-10 also directs mandatory minimum sentences at drug trafficking offences. To be perfectly clear, Bill C-10 is not aimed at targeting casual drug users. It is not aimed at increasing arbitrary police powers. It is aimed at the irreparable harm that drug trafficking and the associated criminal activity can do to our communities and to our citizens.

Superintendent Eric Slinn, Director of the Drug Branch of the Royal Canadian Mounted Police, noted that:

The well-being of communities is being undermined every day by drug dealers who have no respect for the well-being of our kids and our communities.

Every day, our members see the devastating effects that drug traffickers and producers have on all of our communities. Those police officers are the ones who constantly have to arrest the same drug dealers and producers over and over again and stop them from poisoning our children and grandchildren and robbing youth of their future.

He asserted that Bill C-10's stance on drug trafficking will help alleviate this problem because, according to him, cutting off the production and distribution of these dangerous and illegal drugs takes away the lifeblood of organized crime.

Much of the opposition disagreed with the focus on marijuana traffickers in the bill. However, Mr. Slinn informed us:

Marijuana is undeniably the jet fuel that powers Canadian-based organized crime and allows it to finance its other illicit activities, not only in Canada but throughout the world.

He added:

Organized crime continues to control the once recreational subculture of marijuana use and has turned it into a multi-billion-dollar industry. The health and safety of Canadian citizens is considered collateral damage in the turf wars and violence that indiscriminately erodes community well-being.

The effects of marijuana are not limited to its users; it is something that affects many different areas of the well-being of the Canadian public.

As a parent, it is particularly disgusting to me that the traffickers who are the target of this bill operate in utter disregard for the harm that their product causes to the youth of this country. Dr. Gabriella Gobbi, Neuroscientist and Associate Professor at McGill University, informed our committee that:

Canadian adolescents have the highest rate of cannabis consumption in the world.

I am not sure this is a widely understood fact, but it should be, and we all have reason to be alarmed by it.

Honourable senators, truly, how many of you know that Canadian adolescents have the highest rate of cannabis consumption in the world?

Why does that matter? Consider this piece of testimony from Dr. Gobbi, an internationally recognized leader in her field. According to Dr. Gobbi, the damaging effect on young brains is worse than originally thought, and daily consumption of cannabis in the teenage years can cause depression and anxiety and have an irreversible long-term effect on the brain. She told us:

... people who used cannabis by the age of 15 or even earlier were found to be four times more likely to have a diagnosis of psychosis at the age of 26 than non-consumers. Several studies have also demonstrated the link between adolescent cannabis consumption and the increased risk of depression, suicide, antisocial behaviour and addiction to other drugs.

There is also a strong link between cannabis use and school dropout rates.

Let it be known that Bill C-10 aims to protect our vulnerable youth by targeting the predators that provide the catalysts of these problems with blatant, wilful disregard for the damage they are causing. Bill C-10 attempts to protect our youth and our communities by making it clear that those trafficking drugs will face jail time due to the dangers they cause to Canadians. The harms are felt by our youth to whom they market and by the communities that they ravage. This bill takes a firm stance on the intolerance of this practice.

Notwithstanding the harsh stance taken on combating drug trafficking, Bill C-10 contains an explicit safety valve pertaining to those convicted of drug offences. A judge may defer sentencing an individual found guilty of the drug offences in Bill C-10 if that individual attends a drug treatment program. If successfully

completed, a judge is not bound by the mandatory minimum sentences, and he can impose a sentence seen fit to the particular circumstances. This acknowledges the hardships of drug addiction and allows judicial flexibility in appropriate cases while maintaining the rigid stance on drug traffickers that prey on Canadian communities.

• (2300)

One last misconception I wish to dispel is the concern that medical marijuana users are being targeted by Bill C-10. Firstly, this is not the target of Bill C-10. The bill does not pre-empt or nullify an existing valid licence or interfere with the current scheme. Furthermore, the only portions of Bill C-10 pertaining to marijuana involve trafficking thereof and involve the proof of aggravating factors. The bill is aimed at people who take advantage of the safety of Canadians, not ill persons receiving treatment.

Users of marijuana with valid licences will not be the object of Bill C-10.

A very rewarding aspect of attending the committee hearings was listening to testimony from brave law enforcement personnel from across Canada. The overwhelming consensus was appreciation for the variety of tools to fight against the dangers Canadians face from predatory criminals and criminal organizations ever evolving in sophistication.

Mr. Tom Stamatakis, President of the Canadian Police Association, stated the following:

... the CPA entirely supports the goals and methods contained within Bill C-10. From the enhanced sentencing rules for those who commit sexual offences against minors to the restrictions on conditional sentences for some of the most serious offences, these changes will go a long way to ensuring that those criminals caught as a result of our investigations will face an appropriate punishment for crimes.

Mr. Slinn added:

Any tool that law enforcement can get helps. Many of our police officers or drug enforcement officers are frustrated seeing the same people walking out the door, making millions of dollars. ... There must be a consequence.

Bill C-10 is about restoring a feeling of safety and justice to victims and the community. This legislation and the mandatory minimum sentence provisions contained within it are not a sword to be used by law enforcement officials to target individuals who behave in ways currently considered lawful, but a shield to protect the most vulnerable from those they prey on with utter disregard for the damage they cause.

With the distracting discussion of the mandatory minimum penalties, many other excellent portions of the bill have been under-discussed. For instance, Part 5 of the bill contains within it tools that aim to crack down on the very serious problem of international human trafficking. This is a clear representation that Canada is not willing to allow this exploitation to occur.

The Hon. the Speaker *pro tempore*: You have five more minutes.

Senator Frum: Our government is committed to ensuring criminals are held fully accountable for their actions and that the safety and security of law-abiding Canadians and victims comes first in Canada's judicial system. We will continue to fight crime and protect Canadians so that our communities are safe places for people to live, raise their families and do business. Bill C-10 can increase safety on the streets and assure the well-being of Canadian families. It provides added protections and offers tools for law enforcement.

Again, I would like to thank all of the witnesses for their thoughtful testimony over the last few weeks and all of my colleagues for their thorough assessment and analysis. I would urge all honourable senators to support this bill and, in doing so, to contribute to the safety and security of Canadians.

Hon. Grant Mitchell: I think I will probably be the last speaker.

I would like to start by saying that like many of us, and certainly as was expressed by Senator Eggleton, I, too, enjoyed Senator Carignan's historical exposé, if I can say that. However, as he was speaking, I was reminded of a theory that is getting more and more credibility, and that is when you cannot explain why it is Mr. Harper seems to be doing something, you have to look and realize he is doing something that either the Liberals did not do or is changing something that the Liberals did. He is always reacting to the Liberals.

As Senator Carignan was speaking, I thought: There is the breakthrough; just tell the Prime Minister that Liberals actually supported mandatory minimums, and instantly this bill is done. Let us get the blues right now; get them over there.

On a more serious note, I wanted to address the question that was a heartfelt, powerful question asked by Senator Martin: What do you tell these families that have suffered such tremendous pain and anguish at the loss of their children as a result of this crime? What I would say is you tell them the truth. You tell them the evidence. You do not tell them something that will not work just to make them feel good for a brief period of time.

In fact, the one thing we know above all else about this legislation is that it will create more victims. What I believe absolutely in my heart of hearts is that many young people, 18 years old with six marijuana plants, will end up being incarcerated, and their lives will literally be ruined.

What I also know for sure is you do not mitigate one tragedy by creating other tragedies. There is a better way to do this. We can fix this problem if we use the data, the understanding that we have gained over the years, the experience elsewhere and make it work in a way that helps the families that Senator Martin is talking about in a serious way that is effective and will really and truly help their lives.

So much has been said, and I do not want to repeat it. I would like to just emphasize a couple of things that maybe have not been emphasized as much.

One of them is the question of victims. Clearly, a central theme in the argument that is made by the government is that this bill will help victims. I racked my brain to try to figure out how that is the case. It is true. I noticed if the Conservatives say something over and over again, you have to assume immediately that it is wrong. The less likely it is true, the more likely it is they will hammer it and hammer it and try to make it true. The fact is it will create more victims, not fewer victims, because everything that we know about crime now and about incarceration underlines that in its excess, if excessive and not done properly, then it will create better criminals who will do more crime and create more victims.

The second thing is it will actually create victims in victimless crimes. That 18-year-old with six marijuana plants who is making a mistake, as 18-year-olds perhaps do — does not have to sell it, does not even have to give it away — will go to jail for a year: black and white, *fait accompli*, no chance for any kind of consideration of circumstances. That 18-year-old will likely become a victim, inhibited in their ability to progress through their lives, to become doctors or lawyers or police people or to have professional lives they might otherwise have had, to contribute, if they were to get through that case and have a second chance. They will very much more likely be better criminals and their lives will in many respects possibly be ruined.

It will not help victims, thirdly, because there is no compensation for victims in this bill. There are no programs for victims in this bill. It will make more victims because there will be more crime, and it will make victims of what really and truly are victimless crimes.

Finally, there is a real irony in the value of the principle of victimhood that is embodied in this bill and in the government's approach to the crime agenda. In recent weeks we have seen the Internet snooping surveillance bill that the government is arguing will prevent Internet predators — it will allow the catching of Internet predators — thereby protecting young people and others who would otherwise be victims. Let us say it does not. Let us say these young people do become victims, some of them because they have been abused by predators. Ten or fifteen years later when they act out criminally as a result of that, there will be no ability to have any discretion or any consideration in what to do with these victims because they acted out as a result of what occurred to them, as horrible as it was.

• (2310)

Therefore, here we have a government that says it wants to protect victims, but once they are victims — and they act in a way that would follow from that, often — there is no compassion, no understanding, and no discretion for an ability to deal with them in ways that people with judgment and experience — namely judges — could apply to meet and accommodate the specific circumstances of that young person, once a victim and now victimized the second time.

I would also like to talk about a segment of very vulnerable people who will particularly be disproportionately disadvantaged by this legislation: That is the subset of women in this country. Senator Eggleton made the point that this bill will really and truly harm particularly vulnerable people.

There is evidence that this will inordinately and disproportionately affect women for a number of reasons. One is that women often are not involved in violent crimes and so there is much more leniency to deal with them. However, much of that leniency will be gone. It is true, also, of course, that Aboriginal women have special circumstances and they will be particularly disadvantaged by this.

It is interesting to note that, as of August 2010, there were 512 federally-sentenced women incarcerated in federal facilities. In addition, there were 567 women offenders under some form of community release supervision — conditional sentencing. That number will be reduced dramatically because conditional sentencing will be much less available. Therefore, the incarceration of women will increase. In fact, it has already increased; over the last 10 years, the number of women admitted to federal jurisdictions and institutions has been up almost 40 per cent.

However, what is very startling is that, over the last 10 years, the number of Aboriginal women incarcerated at the federal level has gone up by almost 90 per cent. This will accelerate as a result of this bill.

What is also very telling with respect to women is their particular circumstances — women who offend and who are incarcerated. First of all, 77 per cent of women offenders have children; just over half have indicated some kind of experience with children's aid. In 2010, 86 per cent of women offenders reported histories of physical abuse; and 68 per cent reported a history of sexual abuse at some point in their lives. This has represented an increase of 19 and 15 per cent respectively over the last 20 years. Approximately 45 per cent of women offenders report having less than a high school education when they arrive in the penal system; 70 per cent of the women in the federal penal system have alcohol abuse issues; 78 per cent have drug abuse issues.

In addition to that, a recent study indicated that 29 per cent — almost a third of the women offenders — when they arrived at a prison institution had mental health problems; and 31 per cent in the system — other than that 29 per cent — have had mental health problems at some point in their lives leading up to that. In addition, just under half of the women in the system at any given time report having engaged in self-harming behaviour.

This underlines a series of very critical problems affecting this segment of women who are clearly vulnerable to offending and ending up in the system. None of the features of this bill will have anything to do with fixing that problem. People, women in particular, with problems like this — in this case in particular — will not, I am certain, and the evidence suggests strongly, be particularly inspired not to offend because of any kind of sentencing.

These problems are far deeper and need to be addressed. If you wanted to fix this problem, you would fix the problems that face women who are telling us, as they arrive in the system, that they have fundamental problems that have led to this and are in many respects beyond their control without some kind of help.

What is also very telling is that 80 per cent of incarcerated women were there for poverty-related crimes; 39 per cent of them were there because they failed to pay a fine. How will this be improved by incarcerating them through mandatory minimum sentences and by taking all discretion, or the better part of discretion, away from the judicial system that could in fact be able to help them and help those who will simply now increase their numbers?

It is interesting to note that many of them rely upon social assistance, when you think about them being involved in poverty-related crime. In Alberta, social assistance rates for a single-parent family have ranged as low as 52 per cent of the poverty line. It is 27 per cent below the poverty line, as well, in Newfoundland and Labrador.

These are the kinds of problems that need to be addressed, and they not addressed in a bill like this that embodies simplistic solutions that will not work for very complex problems.

Another feature of women in prisons is that 77 per cent of them have children. There is growing evidence that incarcerated women may be there with problems that would not make them the best mothers but, again, that is a much stronger argument for assisting them with programs to work on their problems that, one, would enhance their ability to be better mothers and, two, would keep them out of the system. However, the fact is that evidence is emerging that children of incarcerated mothers are infinitely more likely to begin to offend themselves, to feel alienated from society, and to have serious problems in their lives.

More women with children in prison simply means more children at risk, which means more young adults involved in criminal behaviour, and so the cycle continues.

I would finish by talking about one other thing, which is captured in a couple of quotes. I think it is obvious that underlying this bill is a sense of punishment, a sense of retribution. Intrinsic in that kind of approach is judgment — being judgmental, and I do not mean that in a good way — and of expressing some kind of anger or frustration. That, of course, usually skews good judgment.

Trinda L. Ernst, President of the Canadian Bar Association, said: "This bill emphasizes retribution above all else." Craig Jones, Executive Director of The John Howard Society, said: "This is not a crime agenda; it is a punishment agenda."

When I was studying and reading about this — and I will paraphrase this badly — I was reminded of a story of Nelson Mandela, one of the most elevated people on the planet. He got out of jail after 27 years of being incarcerated and absolutely treated unfairly for the most evil of conceivable reasons. He said by the time he got to the car, he had made a determination. He had been locked up behind walls for 27 years and would not allow anger and bitterness to keep him incarcerated for the rest of his life, so he through that away.

What I am saying is that it is, in some sense, a question of emphasis. Every major religion and culture has in it as one of its central value tenets a sense of forgiveness and compassion. They do, because it works and it reflects something in the human

condition. It says what we all know in our heart of hearts: Retribution does not help the victim or the perpetrator, and retribution in no way enhances or creates health and healing.

I request five more minutes, please.

An Hon. Senator: You may have five more minutes.

Senator Mitchell: Thank you.

Nelson Mandela got it right. What did he do? He was instrumental in creating the Truth and Reconciliation Commission, which was inspired in its ability to create healing and to bring a society together. In fact, we have had that model here in this country — or are making efforts to do so — with the Aboriginal peoples and their problems. I think that should not be lost upon us at all.

• (2320)

What I feel in my heart of hearts about this bill, among many other things, is that it addresses an issue, yes, that needs to be addressed, but it addresses it in exactly the wrong way. It will make it worse, it will not make it better, and in the process of doing it, the way that it addresses it will make all of us lesser. It will not elevate us. It does not come from a place of compassion or forgiveness. It comes from another place, and it is not becoming, and it will not make this country or this society better. It will make it harsher, angrier and more frustrated and, as said by one of my colleagues, we will be back here in five or ten years and we will be fixing this, but think of the number of lives that will be irreversibly damaged because of the mistakes that will be made in 40 minutes when this bill is passed by this government.

[Translation]

Hon. Jean-Guy Dagenais: Honourable senators, I am delighted to rise to address this chamber for the first time since my appointment to the Senate.

I would like to begin by congratulating Senator Wallace, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, as well as Senator Fraser. It is even more exciting to rise here, knowing that I am defending the contents of Bill C-10, which we just debated in committee and, which, I am convinced, will establish the new security parameters we want for our children, for victims of crime, for our seniors, and for all Canadians in this great country.

Bill C-10 comprises many provisions to improve public safety and to make criminals more accountable for the crimes they commit.

Bill C-10 represents the pendulum of justice swinging back, which is what Canadians have been waiting for for some time.

To put it briefly, this bill guarantees huge benefits for communities while preserving the rehabilitation programs that give Canada its reputation as a country of great justice.

Bill C-10 introduces measures that will finally take victims into account, measures that will keep dangerous offenders — who are almost guaranteed to reoffend and who represent a clear danger to society — off the streets.

Bill C-10 introduces provisions for minimum sentences that send a clear message to criminals that there is a price to pay for committing a crime in Canada.

Bill C-10 introduces provisions for mandatory minimum sentences that will effectively combat the production and distribution of illegal drugs, a scourge that destroys our young people, promotes intimidation and pays big bucks to organized crime.

Bill C-10 also introduces measures that will ensure better supervision of rehabilitation programs and parole for offenders who have agreed — and I would like to emphasize this point — who have agreed to take control of their lives and who want to be law-abiding citizens once again.

I can tell you, honourable senators, that we listened with open minds to the arguments against these new justice provisions.

Highly credible witnesses and Liberal senators with plenty of political experience drew our attention to certain elements of the legislation that worried them. We had cordial discussions with them about some of the points they raised, which we countered with other testimony that we had heard. After that process, we settled on what I sincerely believe to be the wisest, most contemporary, and most informed approach given current circumstances.

Now that the process is complete, I would like to personally thank everyone who participated in person or in writing in this debate, which is important to our country's future. Now it is up to all of us to complete the legislative process calmly, a duty that none of us will shirk.

As promised by the government, which received a majority mandate in May 2011, the Canadian Senate will pass Bill C-10 to give the nation improved legal rules to fight the criminals who threaten the safety of our children and our population in general.

Let us be frank for a few moments. Change always breeds fear. It happens in business as well as in politics. At committee these past few days, I quickly came to the conclusion that such important and far-reaching reforms would not be to everyone's liking. Some objections and some statistics, which could lend themselves to many arguments depending on which side of the fence you were on, were brilliantly brought to our attention. However, they must not block our will to reform the system and to increase the accountability of the major stakeholders in our justice system, which is already recognized as one of the best in the world.

I would like to remind the opponents of Bill C-10 that the terms “incarceration” and “rehabilitation” are concepts that can work hand in hand. And no matter what is said, that is exactly what Bill C-10 will accomplish, as long as we have offenders who are willing.

Some people may not have understood, or simply do not wish to understand. For that reason, I will say it again. The rights of the accused are not affected. But from now on they will be linked to a process that will consider the victims and community safety.

I do not know how much contact you have with your respective communities. As for me, I make it my duty to never miss an opportunity to find out what people expect from our justice system. I listen to them, I talk to them and I understand their perspectives. And that is exactly why we have to take action today to put an end to the cynicism that exists with regard to the sentences imposed and the ease with which offenders in Canada are able to get parole.

I would like to highlight, in my own way, some problems that will be remedied by the passage of Bill C-10.

I, Jean-Guy Dagenais, would not want to go down in history for having rejected the provisions of Bill C-10, which will make our laws on child pornography tougher and impose minimum sentences on child abusers. Bill C-10 marks an end to conditional sentences that allow pedophiles to get out of prison. This crime, which is up by 30 per cent, deserves to be severely punished.

I, Jean-Guy Dagenais, do not want women who are the victims of violence to one day walk up to me and blame me for not voting in favour of provisions that would grant them special status and give them the right to intervene and the right to be kept informed of any action that could lead —

The Hon. the Speaker: Honourable senators, I must interrupt the debate.

[English]

Pursuant to the order of the Senate, the six hours of debate having been concluded, I must put the following question to the house.

It was moved by the Honourable Senator Wallace, seconded by the Honourable Senator White, that the ninth report be adopted of the Standing Senate Committee on Legal and Constitutional Affairs, Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts, with amendments and observations.

Those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say “nay.”

Some Hon. Senators: Nay.

[Senator Dagenais]

The Hon. the Speaker: In my opinion, the “yeas” have it.

And two honourable senators having risen:

[Translation]

Senator Carignan: Honourable senators, I seek leave of the Senate to move to the vote on the report. The whips could determine the length of the bells.

I would also like us to deal with third reading immediately thereafter and reserve an item on the orders of the day to address the usual administrative issues, namely the adjournment motion.

[English]

The Hon. the Speaker: Do the whips have advice for the bell?

Senator Marshall: Fifteen minutes.

Senator Munson: Yes, 15 minutes.

The Hon. the Speaker: Honourable senators, the standing vote will take place in 15 minutes; therefore, that will be at a quarter to 12. At 11:45, the standing vote will be held.

Do I have permission to leave the chair?

Hon. Senators: Agreed.

• (2340)

Motion agreed to and report adopted on the following division:

YEAS THE HONOURABLE SENATORS

| | |
|------------------|-------------------------|
| Angus | Maltais |
| Ataullahjan | Manning |
| Boisvenu | Marshall |
| Brazeau | Martin |
| Brown | Meredith |
| Buth | Mockler |
| Carignan | Neufeld |
| Cochrane | Ogilvie |
| Comeau | Oliver |
| Dagenais | Patterson |
| Demers | Plett |
| Di Nino | Poirier |
| Doyle | Runciman |
| Duffy | Seidman |
| Eaton | Seth |
| Finley | Smith (<i>Saurel</i>) |
| Fortin-Duplessis | Stewart Olsen |
| Frum | Stratton |
| Gerstein | Tkachuk |
| Greene | Unger |
| Housakos | Verner |
| Lang | Wallace |
| LeBreton | Wallin |
| MacDonald | White—48 |

NAYS
THE HONOURABLE SENATORS

| | |
|------------------|--------------------------|
| Baker | Lovelace Nicholas |
| Callbeck | Mahovich |
| Campbell | Massicotte |
| Chaput | McCoy |
| Cools | Mercer |
| Cordy | Merchant |
| Cowan | Mitchell |
| Dawson | Munson |
| Day | Nolin |
| Downe | Peterson |
| Dyck | Poulin |
| Eggleton | Poy |
| Fraser | Ringuette |
| Furey | Robichaud |
| Harb | Sibbeston |
| Hervieux-Payette | Smith (<i>Cobourg</i>) |
| Hubley | Tardif |
| Jaffer | Zimmer—37 |
| Losier-Cool | |

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (2350)

The Hon. the Speaker: Honourable senators, since the Senate has exhausted all time for debate under time allocation order, and pursuant to rule 62(2), the Senate is now at third reading of Bill C-10.

THIRD READING

Hon. John D. Wallace moved third reading of Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts, as amended.

The Hon. the Speaker: Those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion please say “nay”.

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the “yeas” have it.

And two honourable senators having risen:

The Hon. the Speaker: The standing vote will take place forthwith.

Honourable senators, the question is as follows: It is moved by Senator Wallace, seconded by Senator White, that Bill C-10, which is amended by the adoption of the report, be read the third time. Those in favour of the motion will please rise.

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

| | |
|------------------|-------------------------|
| Angus | Maltais |
| Ataullahjan | Manning |
| Boisvenu | Marshall |
| Brazeau | Martin |
| Brown | Meredith |
| Buth | Mockler |
| Carignan | Neufeld |
| Cochrane | Ogilvie |
| Comeau | Oliver |
| Dagenais | Patterson |
| Demers | Plett |
| Di Nino | Poirier |
| Doyle | Runciman |
| Duffy | Seidman |
| Eaton | Seth |
| Finley | Smith (<i>Saurel</i>) |
| Fortin-Duplessis | Stewart Olsen |
| Frum | Stratton |
| Gerstein | Tkachuk |
| Greene | Unger |
| Housakos | Verner |
| Lang | Wallace |
| LeBreton | Wallin |
| MacDonald | White—48 |

NAYS
THE HONOURABLE SENATORS

| | |
|------------------|--------------------------|
| Baker | Lovelace Nicholas |
| Callbeck | Mahovich |
| Campbell | Massicotte |
| Chaput | McCoy |
| Cools | Mercer |
| Cordy | Merchant |
| Cowan | Mitchell |
| Dawson | Munson |
| Day | Nolin |
| Downe | Peterson |
| Dyck | Poulin |
| Eggleton | Poy |
| Fraser | Ringuette |
| Furey | Robichaud |
| Harb | Sibbeston |
| Hervieux-Payette | Smith (<i>Cobourg</i>) |
| Hubley | Tardif |
| Jaffer | Zimmer—37 |
| Losier-Cool | |

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Accordingly the motion is adopted.

(Motion agreed to and bill, as amended, read third time and passed.)

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, March 6, 2012, at 2 p.m.

The Hon. the Speaker: Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, March 6, 2012, at 2 p.m.)

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

THE SPEAKER

The Honourable Noël A. Kinsella

THE LEADER OF THE GOVERNMENT

The Honourable Marjory LeBreton, P.C.

THE LEADER OF THE OPPOSITION

The Honourable James S. Cowan

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Gary W. O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Kevin MacLeod

THE MINISTRY

(In order of precedence)

(March 1, 2012)

| | |
|--------------------------------------|---|
| The Right Hon. Stephen Joseph Harper | Prime Minister |
| The Hon. Robert Douglas Nicholson | Minister of Justice and Attorney General of Canada |
| The Hon. Marjory LeBreton | Leader of the Government in the Senate |
| The Hon. Peter Gordon MacKay | Minister of National Defence |
| The Hon. Vic Toews | Minister of Public Safety |
| The Hon. Rona Ambrose | Minister of Public Works and Government Services |
| The Hon. Diane Finley | Minister of State (Status of Women) |
| The Hon. Beverley J. Oda | Minister of Human Resources and Skills Development |
| The Hon. John Baird | Minister of International Cooperation |
| The Hon. Tony Clement | Minister of Foreign Affairs |
| | President of the Treasury Board |
| | Minister for the Federal Economic Development Initiative for Northern Ontario |
| The Hon. James Michael Flaherty | Minister of Finance |
| The Hon. Peter Van Loan | Leader of the Government in the House of Commons |
| The Hon. Jason Kenney | Minister of Citizenship, Immigration and Multiculturalism |
| The Hon. Gerry Ritz | Minister of Agriculture and Agri-Food |
| | Minister for the Canadian Wheat Board |
| The Hon. Christian Paradis | Minister of Industry and Minister of State (Agriculture) |
| The Hon. James Moore | Minister of Canadian Heritage and Official Languages |
| The Hon. Denis Lebel | Minister of Transport, Infrastructure and Communities |
| | Minister of the Economic Development Agency of Canada for the Regions of Quebec |
| The Hon. Leona Aglukkaq | Minister of Health |
| | Minister of the Canadian Northern Economic Development Agency |
| The Hon. Keith Ashfield | Minister of Fisheries and Oceans and Minister for the Atlantic Gateway |
| The Hon. Peter Kent | Minister of the Environment |
| The Hon. Lisa Raitt | Minister of Labour |
| The Hon. Gail Shea | Minister of National Revenue |
| The Hon. John Duncan | Minister of Aboriginal Affairs and Northern Development |
| The Hon. Steven Blaney | Minister of Veterans Affairs |
| The Hon. Edward Fast | Minister of International Trade |
| | Minister for the Asia-Pacific Gateway |
| The Hon. Joe Oliver | Minister of Natural Resources |
| The Hon. Peter Penashue | Minister of Intergovernmental Affairs |
| | President of the Queen's Privy Council for Canada |
| The Hon. Julian Fantino | Associate Minister of National Defence |
| The Hon. Bernard Valcourt | Minister of State (Atlantic Canada Opportunities Agency) (La Francophonie) |
| The Hon. Gordon O'Connor | Minister of State and Chief Government Whip |
| The Hon. Maxime Bernier | Minister of State (Small Business and Tourism) |
| The Hon. Diane Ablonczy | Minister of State of Foreign Affairs (Americas and Consular Affairs) |
| | Minister of State (Western Economic Diversification) |
| The Hon. Lynne Yelich | Minister of State (Transport) |
| The Hon. Steven John Fletcher | Minister of State (Science and Technology) |
| The Hon. Gary Goodyear | Minister of State (Federal Economic Development Agency for Southern Ontario) |
| | Minister of State (Finance) |
| The Hon. Ted Menzies | Minister of State (Democratic Reform) |
| The Hon. Tim Uppal | Minister of State (Seniors) |
| The Hon. Alice Wong | Minister of State (Sport) |
| The Hon. Bal Gosal | |

SENATORS OF CANADA

ACCORDING TO SENIORITY

(March 1, 2012)

| Senator | Designation | Post Office Address |
|----------------------------------|------------------------------------|----------------------------|
| The Honourable | | |
| Anne C. Cools | Toronto Centre-York | Toronto, Ont. |
| Charlie Watt | Inkerman | Kuujuuaq, Que. |
| Joyce Fairbairn, P.C. | Lethbridge | Lethbridge, Alta. |
| Colin Kenny | Rideau | Ottawa, Ont. |
| Pierre De Bané, P.C. | De la Vallière | Montreal, Que. |
| Ethel Cochrane | Newfoundland and Labrador | Port-au-Port, Nfld. & Lab. |
| Gerald J. Comeau | Nova Scotia | Saulnierville, N.S. |
| Consiglio Di Nino | Ontario | Downsview, Ont. |
| Donald H. Oliver | South Shore | Halifax, N.S. |
| Noël A. Kinsella, <i>Speaker</i> | Fredericton-York-Sunbury | Fredericton, N.B. |
| Janis G. Johnson | Manitoba | Gimli, Man. |
| A. Raynell Andreychuk | Saskatchewan | Regina, Sask. |
| Jean-Claude Rivest | Stadacona | Quebec, Que. |
| Terrance R. Stratton | Red River | St. Norbert, Man. |
| David Tkachuk | Saskatchewan | Saskatoon, Sask. |
| W. David Angus | Alma | Montreal, Que. |
| Pierre Claude Nolin | De Salaberry | Quebec, Que. |
| Marjory LeBreton, P.C. | Ontario | Manotick, Ont. |
| Gerry St. Germain, P.C. | Langley-Pemberton-Whistler | Maple Ridge, B.C. |
| Rose-Marie Losier-Cool | Tracadie | Tracadie-Sheila, N.B. |
| Céline Hervieux-Payette, P.C. | Bedford | Montreal, Que. |
| Marie-P. Poulin | Nord de l'Ontario/Northern Ontario | Ottawa, Ont. |
| Wilfred P. Moore | Stanhope St./South Shore | Chester, N.S. |
| Fernand Robichaud, P.C. | New Brunswick | Saint-Louis-de-Kent, N.B. |
| Catherine S. Callbeck | Prince Edward Island | Central Bedeque, P.E.I. |
| Serge Joyal, P.C. | Kennebec | Montreal, Que. |
| Francis William Mahovlich | Toronto | Toronto, Ont. |
| Joan Thorne Fraser | De Lorimier | Montreal, Que. |
| Vivienne Poy | Toronto | Toronto, Ont. |
| George Furey | Newfoundland and Labrador | St. John's, Nfld. & Lab. |
| Nick G. Sibbeston | Northwest Territories | Fort Simpson, N.W.T. |
| Jane Cordy | Nova Scotia | Dartmouth, N.S. |
| Elizabeth M. Hubley | Prince Edward Island | Kensington, P.E.I. |
| Mobina S. B. Jaffer | British Columbia | North Vancouver, B.C. |
| Joseph A. Day | Saint John-Kennebecasis | Hampton, N.B. |
| George S. Baker, P.C. | Newfoundland and Labrador | Gander, Nfld. & Lab. |
| David P., P.C. | Cobourg | Toronto, Ont. |
| Maria Chaput | Manitoba | Sainte-Anne, Man. |
| Pana Merchant | Saskatchewan | Regina, Sask. |
| Pierrette Ringuette | New Brunswick | Edmundston, N.B. |
| Percy E. Downe | Charlottetown | Charlottetown, P.E.I. |
| Paul J. Massicotte | De Lanaudière | Mont-Saint-Hilaire, Que. |
| Mac Harb | Ontario | Ottawa, Ont. |
| Terry M. Mercer | Northend Halifax | Caribou River, N.S. |
| Jim Munson | Ottawa/Rideau Canal | Ottawa, Ont. |
| Claudette Tardif | Alberta | Edmonton, Alta. |
| Grant Mitchell | Alberta | Edmonton, Alta. |

| Senator | Designation | Post Office Address |
|----------------------------|---|-----------------------------------|
| Elaine McCoy | Alberta | Calgary, Alta. |
| Robert W. Peterson | Saskatchewan | Regina, Sask. |
| Lillian Eva Dyck | Saskatchewan | Saskatoon, Sask. |
| Art Eggleton, P.C. | Ontario | Toronto, Ont. |
| Nancy Ruth | Cluny | Toronto, Ont. |
| Roméo Antonius Dallaire | Gulf | Sainte-Foy, Que. |
| James S. Cowan | Nova Scotia | Halifax, N.S. |
| Andrée Champagne, P.C. | Grandville | Saint-Hyacinthe, Que. |
| Hugh Segal | Kingston-Frontenac-Leeds | Kingston, Ont. |
| Larry W. Campbell | British Columbia | Vancouver, B.C. |
| Rod A. A. Zimmer | Manitoba | Winnipeg, Man. |
| Dennis Dawson | Lauson | Sainte-Foy, Que. |
| Sandra Lovelace Nicholas | New Brunswick | Tobique First Nations, N.B. |
| Bert Brown | Alberta | Kathryn, Alta. |
| Stephen Greene | Halifax-The Citadel | Halifax, N.S. |
| Michael L. MacDonald | Cape Breton | Dartmouth, N.S. |
| Michael Duffy | Prince Edward Island | Cavendish, P.E.I. |
| Percy Mockler | New Brunswick | St. Leonard, N.B. |
| John D. Wallace | New Brunswick | Rothesay, N.B. |
| Michel Rivard | The Laurentides | Quebec, Que. |
| Nicole Eaton | Ontario | Caledon, Ont. |
| Irving Gerstein | Ontario | Toronto, Ont. |
| Pamela Wallin | Saskatchewan | Wadena, Sask. |
| Nancy Greene Raine | Thompson-Okanagan-Kootenay | Sun Peaks, B.C. |
| Yonah Martin | British Columbia | Vancouver, B.C. |
| Richard Neufeld | British Columbia | Fort St. John, B.C. |
| Daniel Lang | Yukon | Whitehorse, Yukon |
| Patrick Brazeau | Repentigny | Gatineau, Que. |
| Leo Housakos | Wellington | Laval, Que. |
| Suzanne Fortin-Duplessis | Rougemont | Quebec, Que. |
| Donald Neil Plett | Landmark | Landmark, Man. |
| Michael Douglas Finley | Ontario—South Coast | Simcoe, Ont. |
| Linda Frum | Ontario | Toronto, Ont. |
| Claude Carignan | Mille Isles | Saint-Eustache, Que. |
| Jacques Demers | Rigaud | Hudson, Que. |
| Judith G. Seidman (Ripley) | De la Durantaye | Saint-Raphaël, Que. |
| Carolyn Stewart Olsen | New Brunswick | Sackville, N.B. |
| Kelvin Kenneth Ogilvie | Annapolis Valley - Hants | Canning, N.S. |
| Dennis Glen Patterson | Nunavut | Iqaluit, Nunavut |
| Bob Runciman | Ontario—Thousand Islands and Rideau Lakes | Brockville, Ont. |
| Pierre-Hugues Boisvenu | La Salle | Sherbrooke, Que. |
| Elizabeth (Beth) Marshall | Newfoundland and Labrador | Paradise, Nfld. & Lab. |
| Rose-May Poirier | New Brunswick—Saint-Louis-de-Kent | Saint-Louis-de-Kent, N.B. |
| David Braley | Ontario | Burlington, Ont. |
| Salma Ataullahjan | Toronto—Ontario | Toronto, Ont. |
| Don Meredith | Ontario | Richmond Hill, Ont. |
| Fabian Manning | Newfoundland and Labrador | St. Bride's, Nfld. & Lab. |
| Larry W. Smith | Saurel | Hudson, Que. |
| Josée Verner, P.C. | Montarville | Saint-Augustin-de-Desmaures, Que. |
| Betty E. Unger | Alberta | Edmonton, Alta. |
| JoAnne L. Buth | Manitoba | Winnipeg, Man. |
| Norman E. Doyle | Newfoundland and Labrador | St. John's, Nfld. & Lab. |
| Asha Seth | Ontario | Toronto, Ont. |
| Ghislain Maltais | Shawinigan | Quebec City, Que. |
| Jean-Guy Dagenais | Victoria | Blainville, Que. |
| Vernon White | Ontario | Ottawa, Ont. |

SENATORS OF CANADA

ALPHABETICAL LIST

(March 1, 2012)

| Senator | Designation | Post Office Address | Political Affiliation |
|-----------------------------------|---------------------------|----------------------------|-----------------------|
| The Honourable | | | |
| Andreychuk, A. Raynell | Saskatchewan | Regina, Sask. | Conservative |
| Angus, W. David | Alma | Montreal, Que. | Conservative |
| Ataullahjan, Salma | Toronto—Ontario | Toronto, Ont. | Conservative |
| Baker, George S., P.C. | Newfoundland and Labrador | Gander, Nfld. & Lab. | Liberal |
| Boisvenu, Pierre-Hugues | La Salle | Sherbrooke, Que. | Conservative |
| Braley, David | Ontario | Burlington, Ont. | Conservative |
| Brazeau, Patrick | Repentigny | Gatineau, Que. | Conservative |
| Brown, Bert | Alberta | Kathryn, Alta. | Conservative |
| Buth, JoAnne L. | Manitoba | Winnipeg, Man. | Conservative |
| Callbeck, Catherine S. | Prince Edward Island | Central Bedeque, P.E.I. | Liberal |
| Campbell, Larry W. | British Columbia | Vancouver, B.C. | Liberal |
| Carignan, Claude | Mille Isles | Saint-Eustache, Que. | Conservative |
| Champagne, Andrée, P.C. | Grandville | Saint-Hyacinthe, Que. | Conservative |
| Chaput, Maria | Manitoba | Sainte-Anne, Man. | Liberal |
| Cochrane, Ethel | Newfoundland and Labrador | Port-au-Port, Nfld. & Lab. | Conservative |
| Comeau, Gerald J. | Nova Scotia | Saulnierville, N.S. | Conservative |
| Cools, Anne C. | Toronto Centre-York | Toronto, Ont. | Independent |
| Cordy, Jane | Nova Scotia | Dartmouth, N.S. | Liberal |
| Cowan, James S. | Nova Scotia | Halifax, N.S. | Liberal |
| Dagenais, Jean-Guy | Victoria | Blainville, Que. | Conservative |
| Dallaire, Roméo Antonius | Gulf | Sainte-Foy, Que. | Liberal |
| Dawson, Dennis | Lauzon | Ste-Foy, Que. | Liberal |
| Day, Joseph A. | Saint John-Kennebecasis | Hampton, N.B. | Liberal |
| De Bané, Pierre, P.C. | De la Vallière | Montreal, Que. | Liberal |
| Demers, Jacques | Rigaud | Hudson, Que. | Conservative |
| Di Nino, Consiglio | Ontario | Downsview, Ont. | Conservative |
| Downe, Percy E. | Charlottetown | Charlottetown, P.E.I. | Liberal |
| Doyle, Norman E. | Newfoundland and Labrador | St. John's, Nfld. & Lab. | Conservative |
| Duffy, Michael | Prince Edward Island | Cavendish, P.E.I. | Conservative |
| Dyck, Lillian Eva | Saskatchewan | Saskatoon, Sask. | Liberal |
| Eaton, Nicole | Ontario | Caledon, Ont. | Conservative |
| Eggleton, Art, P.C. | Ontario | Toronto, Ont. | Liberal |
| Fairbairn, Joyce, P.C. | Lethbridge | Lethbridge, Alta. | Liberal |
| Finley, Michael Douglas | Ontario—South Coast | Simcoe, Ont. | Conservative |
| Fortin-Duplessis, Suzanne | Rougemont | Quebec, Que. | Conservative |
| Fraser, Joan Thorne | De Lorimier | Montreal, Que. | Liberal |
| Frum, Linda | Ontario | Toronto, Ont. | Conservative |
| Furey, George | Newfoundland and Labrador | St. John's, Nfld. & Lab. | Liberal |
| Gerstein, Irving | Ontario | Toronto, Ont. | Conservative |
| Greene, Stephen | Halifax - The Citadel | Halifax, N.S. | Conservative |
| Harb, Mac | Ontario | Ottawa, Ont. | Liberal |
| Hervieux-Payette, Céline, P.C. | Bedford | Montreal, Que. | Liberal |
| Housakos, Leo | Wellington | Laval, Que. | Conservative |
| Hubley, Elizabeth M. | Prince Edward Island | Kensington, P.E.I. | Liberal |
| Jaffer, Mobina S. B. | British Columbia | North Vancouver, B.C. | Liberal |
| Johnson, Janis G. | Manitoba | Gimli, Man. | Conservative |
| Joyal, Serge, P.C. | Kennebec | Montreal, Que. | Liberal |
| Kenny, Colin | Rideau | Ottawa, Ont. | Liberal |
| Kinsella, Noël A., <i>Speaker</i> | Fredericton-York-Sunbury | Fredericton, N.B. | Conservative |

| Senator | Designation | Post Office Address | Political Affiliation |
|-----------------------------|---|-----------------------------------|--------------------------|
| Lang, Daniel | Yukon | Whitehorse, Yukon | Conservative |
| LeBreton, Marjory, P.C. | Ontario | Manotick, Ont. | Conservative |
| Losier-Cool, Rose-Marie | Tracadie | Tracadie-Sheila, N.B. | Liberal |
| Lovelace Nicholas, Sandra | New Brunswick | Tobique First Nations, N.B. | Liberal |
| MacDonald, Michael L. | Cape Breton | Dartmouth, N.S. | Conservative |
| Mahovich, Francis William | Toronto | Toronto, Ont. | Liberal |
| Maltais, Ghislain | Shawinigan | Quebec City, Que. | Conservative |
| Manning, Fabian | Newfoundland and Labrador | St. Bride's, Nfld. & Lab. | Conservative |
| Marshall, Elizabeth (Beth) | Newfoundland and Labrador | Paradise, Nfld. & Lab. | Conservative |
| Martin, Yonah | British Columbia | Vancouver, B.C. | Conservative |
| Massicotte, Paul J. | De Lanaudière | Mont-Saint-Hilaire, Que. | Liberal |
| McCoy, Elaine | Alberta | Calgary, Alta. | Progressive Conservative |
| Mercer, Terry M. | Northend Halifax | Caribou River, N.S. | Liberal |
| Merchant, Pana | Saskatchewan | Regina, Sask. | Liberal |
| Meredith, Don | Ontario | Richmond Hill, Ont. | Conservative |
| Mitchell, Grant | Alberta | Edmonton, Alta. | Liberal |
| Mockler, Percy | New Brunswick | St. Leonard, N.B. | Conservative |
| Moore, Wilfred P. | Stanhope St./South Shore | Chester, N.S. | Liberal |
| Munson, Jim | Ottawa/Rideau Canal | Ottawa, Ont. | Liberal |
| Nancy Ruth | Cluny | Toronto, Ont. | Conservative |
| Neufeld, Richard | British Columbia | Fort St. John, B.C. | Conservative |
| Nolin, Pierre Claude | De Salaberry | Quebec, Que. | Conservative |
| Ogilvie, Kelvin Kenneth | Annapolis Valley - Hants | Canning, N.S. | Conservative |
| Oliver, Donald H. | South Shore | Halifax, N.S. | Conservative |
| Patterson, Dennis Glen | Nunavut | Iqaluit, Nunavut | Conservative |
| Peterson, Robert W. | Saskatchewan | Regina, Sask. | Liberal |
| Plett, Donald Neil | Landmark | Landmark, Man. | Conservative |
| Poirier, Rose-May | New Brunswick—Saint-Louis-de-Kent | Saint-Louis-de-Kent, N.B. | Conservative |
| Poulin, Marie-P. | Nord de l'Ontario/Northern Ontario | Ottawa, Ont. | Liberal |
| Poy, Vivienne | Toronto | Toronto, Ont. | Liberal |
| Raine, Nancy Greene | Thompson-Okanagan-Kootenay | Sun Peaks, B.C. | Conservative |
| Ringuette, Pierrette | New Brunswick | Edmundston, N.B. | Liberal |
| Rivard, Michel | The Laurentides | Quebec, Que. | Conservative |
| Rivest, Jean-Claude | Stadacona | Quebec, Que. | Independent |
| Robichaud, Fernand, P.C. | New Brunswick | Saint-Louis-de-Kent, N.B. | Liberal |
| Runciman, Bob | Ontario—Thousand Islands and Rideau Lakes | Brockville, Ont. | Conservative |
| St. Germain, Gerry, P.C. | Langley-Pemberton-Whistler | Maple Ridge, B.C. | Conservative |
| Segal, Hugh | Kingston-Frontenac-Leeds | Kingston, Ont. | Conservative |
| Seth, Asha | Ontario | Toronto, Ont. | Conservative |
| Seidman (Ripley), Judith G. | De la Durantaye | Saint-Raphaël, Que. | Conservative |
| Sibbeston, Nick G. | Northwest Territories | Fort Simpson, N.W.T. | Liberal |
| Smith, David P., P.C. | Cobourg | Toronto, Ont. | Liberal |
| Smith, Larry W. | Saurel | Hudson, Que. | Conservative |
| Stewart Olsen, Carolyn | New Brunswick | Sackville, N.B. | Conservative |
| Stratton, Terrance R. | Red River | St. Norbert, Man. | Conservative |
| Tardif, Claudette | Alberta | Edmonton, Alta. | Liberal |
| Tkachuk, David | Saskatchewan | Saskatoon, Sask. | Conservative |
| Unger, Betty E. | Alberta | Edmonton, Alta. | Conservative |
| Verner, Josée, P.C. | Montarville | Saint-Augustin-de-Desmaures, Que. | Conservative |
| Wallace, John D. | New Brunswick | Rothesay, N.B. | Conservative |
| Wallin, Pamela | Saskatchewan | Wadena, Sask. | Conservative |
| Watt, Charlie | Inkerman | Kuujuuaq, Que. | Liberal |
| White, Vernon | Ontario | Ottawa, Ont. | Conservative |
| Zimmer, Rod A. A. | Manitoba | Winnipeg, Man. | Liberal |

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BY PROVINCE AND TERRITORY

(March 1, 2012)

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| 6 Francis William Mahovlich | Toronto | Toronto |
| 7 Vivienne Poy | Toronto | Toronto |
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| 15 Irving Gerstein | Ontario | Toronto |
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| 15 Leo Housakos | Wellington | Laval |
| 16 Suzanne Fortin-Duplessis | Rougemont | Quebec |
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| 18 Jacques Demers | Rigaud | Hudson |
| 19 Judith G. Seidman (Ripley) | De la Durantaye | Saint-Raphaël |
| 20 Pierre-Hugues Boisvenu | La Salle | Sherbrooke |
| 21 Larry W. Smith | Saurel | Hudson |
| 22 Josée Verner, P.C. | Montarville | Saint-Augustin-de-Desmaures |
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| 4 Joseph A. Day | Saint John-Kennebecasis, New Brunswick | Hampton |
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| 4 Elizabeth (Beth) Marshall | Newfoundland and Labrador | Paradise |
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| Senator | Designation | Post Office Address |
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YUKON—1

| Senator | Designation | Post Office Address |
|-------------------------|-----------------|---------------------|
| The Honourable | | |
| 1 Daniel Lang | Yukon | Whitehorse |

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DEBATES OF THE SENATE

1st SESSION

• 41st PARLIAMENT •

VOLUME 148

• NUMBER 57

OFFICIAL REPORT
(HANSARD)



Tuesday, March 6, 2012

The Honourable DONALD H. OLIVER
Speaker *pro tempore*

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, March 6, 2012

The Senate met at 2 p.m., the Speaker *pro tempore* in the chair.

Prayers.

SENATORS' STATEMENTS

LIEUTENANT-COMMANDER CINDY GALT

CONGRATULATIONS ON INDUCTION TO ORDER OF MILITARY MERIT

Hon. Elizabeth Hubley: Honourable senators, on Friday March 2, Lieutenant Commander Cindy Galt of Summerside, Prince Edward Island, was invested as an Officer of the Order of Military Merit by His Excellency, the Right Honourable David Johnston. I wish to take this opportunity to recognize and congratulate Lieutenant Commander Galt on this wonderful achievement.

The Order of Military Merit recognizes distinctive merit and exceptional service shown by the men and women of the Canadian Forces, both regular and reserve. In her appointment as an officer, Lieutenant Commander Galt displayed outstanding meritorious service in duties of responsibility.

Lieutenant Commander Galt joined the 85 Royal Canadian Sea Cadet Corps in 1974. At the time, she was one of the first women in the cadet program. Since then, she has proven herself to be an exceptional leader and mentor, taking on various positions of responsibility within the Cadet Instructor Cadre. In 1996, she was appointed Commanding Officer of HMCS *Acadia*, the Sea Cadet Summer Training Centre, where she was one of the first women in Canada to hold such a position.

Over the last 15 years, Lieutenant Commander Galt has also served in a variety of other leadership positions, including as a member of the Atlantic Region Cadet Instructors Advisory Council, officer in charge of the Provincial Cadet Biathlon Championships and Honorary Aide-de-Camp to the Lieutenant Governor of Prince Edward Island, a position she continues to hold today.

Throughout her 35-year career, Lieutenant Commander Galt has demonstrated tremendous enthusiasm, dedication and professionalism while serving as a role model and mentor to the youth in the cadet program and in her community.

Lieutenant Commander Galt, I wish to thank you for your leadership and commitment and to congratulate you again on this prestigious award.

CANADIAN CANCER SOCIETY

INNOVATION GRANTS

Hon. Irving Gerstein: Honourable senators, I rise today to talk about gambling, specifically gambling on innovative cancer research, as reported in the March 1 edition of *The Globe and*

Mail. The Canadian Cancer Society, Canada's largest charitable funder of cancer research, is taking a calculated risk with a number of talented cancer researchers who have applied to the society's new innovation grants program. Some of Canada's finest researchers are working on sea lampreys and tumour-killing viruses and applying other creative approaches in their efforts to tame the beast we call cancer. Thanks to the Canadian Cancer Society and this new grant program, we will have the opportunity to witness what scientists will be able to achieve when giving funding that supports bold, original approaches and methodologies in cancer research. This is good news for all Canadians.

Let me tell honourable senators why. Last year, I shared with you that I was diagnosed as having bladder cancer and the subsequent excellent treatment I received by Mount Sinai Hospital's Dr. Alexandre Zlotta. I am delighted to tell you that Dr. Zlotta was awarded one of the Canadian Cancer Society's new innovation grants. In association with Dr. Jeff Wrana, senior investigator at the Samuel Lunenfeld Research Institute at Mount Sinai Hospital, they hopefully will develop a tool to distinguish aggressive from non-aggressive bladder cancer tumours, or to put it in other words, a tool to "distinguish pussycats from tigers." If successful, this could have a huge impact on what is currently a costly and invasive treatment process. These scientists are adapting a molecular analysis tool that was developed initially for breast cancer. How is that for being innovative?

Honourable senators know that from time to time I wear a fundraising hat, and today is no exception. I am appealing to you on behalf of the approximately 180,000 Canadians who will face a cancer diagnosis this year; for 7,000 of them it will be bladder cancer. You can help them.

I urge honourable senators to support the Canadian Cancer Society however you can. Thanks to a donor base made up of average Canadians across the country, the Canadian Cancer Society contributed \$48 million to cancer research last year. The society funds the full spectrum of research from causes and prevention to treatment and palliative care. It funds research into all cancers. Thanks to the millions of dollars that society has put into cancer research over the past several decades, 62 per cent of cancer patients will survive their diagnosis, as compared to 38 per cent in the 1960s. For all these reasons, and I have not even mentioned their advocacy, information and support programs, I encourage honourable senators and all Canadians to make the best possible investment in the fight against cancer by making a donation to the Canadian Cancer Society.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker pro tempore: Honourable senators, I would like to draw to your attention the presence in the gallery of participants in the Parliamentary Officers' Study Program.

On behalf of all senators, welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

[English]

CANADIAN CANCER SOCIETY

INNOVATION GRANTS

Hon. Terry M. Mercer: Honourable senators, Senator Gerstein has mentioned a word that you all know means a lot to me: philanthropy. The innovation grants recently awarded by the Canadian Cancer Society have been fully supported by the donations of Canadians like you. That is exactly why we should celebrate philanthropy at every opportunity. In fact, tomorrow they will be speaking at second reading in the other place on Bill S-201, An Act respecting a National Philanthropy Day. That bill highlights our appreciation of the many benefits achieved by donors and volunteers across Canada. I thank you for your support over the years in that.

Honourable senators, today Senator Gerstein has brought us more evidence of why philanthropy in this country must be celebrated. The Canadian Cancer Society's innovation grants simply would not exist without donors. They have allowed the society to develop this new strategic grant program that supports the best in scientific creativity, risk taking and knowledge. Many of us, including our families, friends and colleagues, have already benefited from research funded by the society.

• (1410)

For example, the 1963 discovery of stem cells by Dr. James Till and Dr. Ernest McCulloch forms the basis of bone marrow transplantation, which has saved thousands of lives worldwide. Also, the discovery of the gene responsible for hereditary stomach cancer means families can now be tested and have preventive surgery.

Donors and volunteers, through Ovarian Cancer Canada, have also helped more women in Canada detect ovarian cancer early, which has increased survival rates. This September my wife, an ovarian cancer survivor, and I will participate in the Ovarian Cancer Canada Walk of Hope, as we have many times in the past. We thank you for your support and encourage your participation.

Honourable senators, these contributions to science and our health are a direct result of Canadians' philanthropic contributions. I applaud all the donors who support research and innovation, specifically today through the Canadian Cancer Society, but also through all other foundations and organizations that Canadians help every day.

Thank you, from the bottom of our hearts.

SYRIA

MILITARY ENGAGEMENT

Hon. Hugh Segal: Honourable senators, the constant bombardment of civilian sites and communities by Syrian armed forces evokes every possible aspect of the responsibility

to protect doctrine proclaimed some years ago by the United Nations on the advice of a task force in which Canada and its then foreign minister, Mr. Axworthy, played a major role.

The engagement in Libya was appropriate and necessary, and Canadian and allied forces, both at sea and in the air, performed a serious humanitarian mission in keeping Gadhafi's air force and artillery from killing Libyan civilians. There, NATO had allies and partners in the Arab League, some of whom flew missions alongside our own pilots.

The Arab League has tried valiantly to seek a non-violent solution to the present violence in Syria. Armed military state violence against women, children, defenceless men and journalists has continued unabated. Not even the Red Crescent and the Red Cross could be allowed assured access to Homs, where so many state-sponsored, military mass murders took place, a city without a single military target. The Arab League is now talking about an Arab-led stabilization force. Canada should encourage NATO to support such a force and to make independent plans to use air assets to contain and restrain the Syrian military, which seems to have no difficulty bombing their own people at will.

Senator McCain of Arizona is quite correct when he said yesterday, "Time is running out. Assad's forces are on the march." Without a readiness to deploy air assets against Syrian government forces, the carnage will continue. The time for a double standard with the people of Syria on the losing end all the time has passed. Refugees are already piling over the Lebanese and Turkish borders. Russia and China have some serious answering to do in view of the deaths that have multiplied since their offensive veto at the Security Council, a veto that raised self-interested cynicism in that body to a new level.

Canada should act in concert with our Turkish, American and Arab League partners and seek a substantive joint Arab-led military engagement in defence of the people of Syria and their right to self-determination. The time for action has come; the time for inaction has passed.

INTERNATIONAL WOMEN'S DAY

Hon. Catherine S. Callbeck: Honourable senators, I am pleased to rise today in recognition of International Women's Day and International Women's Week, which every year give an opportunity to pay tribute to the achievements of women around the world.

The idea of a special day for women has been around for more than 100 years in America and Europe. Initially, its main focus was women's rights and gaining universal suffrage for women. In 1977, the UN General Assembly adopted a resolution proclaiming March 8 United Nations Day for Women's Rights and International Peace.

This year's theme here at home is "Strong Women, Strong Canada — Women in Rural, Remote and Northern Communities: Key to Canada's Economic Prosperity." According to Status of Women Canada, there are more than 5,400 communities of all sizes

in this country and approximately 5,200 of them are classified as rural, remote or northern. About three million women and girls live in these communities and comprise about 45 per cent of the workforce.

My home province has its fair share of strong women who make an economic and social difference in their communities. The PEI Business Women's Association boasts more than 300 members in a wide variety of professions, from artists to financial advisors, from retail store owners to Internet services and web development.

Across the country, women entrepreneurs play a valuable role in driving our economy.

The contributions of women are key to Canada's economic prosperity. In 2010, Statistics Canada found that nearly 1 million of the 2.6 million self-employed workers in Canada were women. Women-owned small- and medium-sized enterprises made up 16 per cent of the SMEs in Canada in 2007. From 1999 to 2009, the number of self-employed women grew by 13 per cent, compared to just 10 per cent for men. Entrepreneurial activity among women has a significant impact on job creation and prosperity across the country.

A great deal of progress has been made for women here in Canada and in other developed and developing countries over the past century. Women's voices are now being heard in places around the world, but much remains to be done. However, today let us celebrate the accomplishments that have been achieved so far and do our best to ensure that they continue until women achieve equality everywhere.

THE LATE DEAN HEYWOOD

Hon. Jim Munson: Honourable senators, when we think of people who report on and bring us the news, we tend to think about those who stand in front of the camera. We see them and talk about them as if we know them.

Dean Heywood was a CBC parliamentary TV cameraman. Though he worked on the other side of the lens, unseen by television audiences, he delivered the crucial aspect of countless memorable news stories. He was a "great shooter," as we say, and he was passionate about his job and his role in journalism.

I met Dean 30 years ago here in Ottawa. On many occasions, CTV and CBC would use the same crews. In these pooled arrangements covering the Prime Minister overseas, Dean would be the pool cameraman. He always treated me professionally. It was irrelevant that we were from competing networks. What brought us together was a shared purpose and that is what mattered to both of us.

Dean could be full of mischief, too, and he was fun to be around. As they say in the news business, "What happens on the road, stays on the road." Dean was full of laughter and he never took himself seriously, only the story.

When I heard of his death last week, I was in shock — a good friend gone. Dean died suddenly late last month while snorkeling off the Costa Rican coast. His enthusiasm for the things he enjoyed was like an unstoppable force. It is shocking that this has happened.

Since his death, people who knew him and worked with him have reacted with tremendous sadness. He was only 59. He died too soon. He still had so much to bring to this world and the people in his life — especially his wife and children, whom he loved so much. His family must be struggling to come to grips with this loss and my thoughts are with them. I think Dean's obituary said it the best: "Dean passed away while snorkeling in paradise with the love of his life, Cheryl."

I want to thank honourable senators for giving me this opportunity to pay tribute to my friend Dean Heywood and for listening with the respect owed to a life well lived.

[Translation]

ROUTINE PROCEEDINGS

THE SENATE

NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE TO EXAMINE GOVERNMENT LEGISLATION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I give notice that, two days hence, I will move:

That a special committee of the Senate be appointed to consider, after second reading, such Government legislation as may be referred to it during the current session, including Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act;

That, notwithstanding rule 85(1)(b), the special committee comprise nine members namely the Honourable Senators Andreychuk, Dagenais, Dallaire, Day, Frum, Joyal, P.C., Segal, Smith, P.C. (Cobourg), and Tkachuk, and that four members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, and to print such papers and evidence from day to day as may be ordered by the committee;

That, pursuant to rule 95(3)(a), the committee have power to sit from Monday to Friday, even though the Senate may then be adjourned for a period exceeding one week;

That the committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings; and

That the committee have power to retain the services of professional, clerical, stenographic and such other staff as deemed advisable by the committee.

• (1420)

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-290, An Act to amend the Criminal Code (sports betting).

(Bill read first time.)

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Runciman, bill placed on the Orders of the Day for second reading two days hence.)

FOOD BANKS

NOTICE OF INQUIRY

Hon. Fernand Robichaud: Honourable senators, I give notice that, at a future Senate sitting:

I will call the attention of the Senate to the importance of food banks to families and the working poor.

[English]

SENATE COMMITTEE ON HUMAN RIGHTS

NOTICE OF INQUIRY

Hon. Mac Harb: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the action of a certain entity and show the Senate how this action is undermining the credibility of the Human Rights Committee and the credibility of the Senate as an institution.

[Translation]

QUESTION PERIOD

OFFICIAL LANGUAGES

SECOND-LANGUAGE TRAINING FOR PUBLIC SERVANTS

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate.

On January 12, the federal government announced the elimination of 190 second-language teaching positions at the Canada School of Public Service. The federal government's intention, from what we

have learned, is to provide language training to public servants using private-sector services, since this would be more cost effective.

On February 2, I asked you a question in that regard and you assured me that language training remains a priority for your government, that language training would continue and that there would be no interruptions. Thank you for that response.

Since then, it seems that an internal audit report from the School of Public Service demonstrates that the privatization of second-language training is a bad decision, economically speaking.

My question is this: Does the Canada School of Public Service have such a report?

[English]

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. As I reported to her when she last asked this question, the government remains fully committed to Canada's official languages. Language training will be provided to those who need it, as I pointed out in my previous answer to Senator Chaput. The private sector, universities, and colleges have the ability and the expertise to provide training to the public service at a lower cost to taxpayers.

I am unaware of the document Senator Chaput cites, but suffice to say that the government fully supports continuing official languages training and believes that there are facilities that could provide that at reasonable cost to the taxpayer.

[Translation]

Senator Chaput: Honourable senators, I have a supplementary question. If such a report exists, could the Leader of the Government obtain a copy for me? I would be interested in seeing if such a study has been carried out and the difference in cost between on-site training provided by 100 or so teachers and training provided by universities or the private sector. If the report does exist, I would like to have a copy.

[English]

Senator LeBreton: As we approach the budget and the work that Treasury Board officials and the government have done, I think we will be facing all kinds of speculation and a lot of misinformation will be floating around. Many people will be commissioning reports and sending in documents to make the case for whatever program they perceive might be involved in the budget.

If the report does exist, and it is possible that it does, I will be happy to try to put my hands on a copy. However, an internal report — and it will be interesting to see the motive behind its commissioning — does not change the government's position that we believe in the linguistic duality of Canada. We believe in Canada's Official Languages Act. We believe in official languages training, and we believe that there are many facilities in this country that are very well equipped to train people in the official languages. Obviously, our commitment to official languages training is not, in any way, affected by those who are able to provide it.

We simply believe that this training can be provided, as required, by many sources, not necessarily just one. We believe that this can be done in the best interests of the taxpayers who ultimately pay for it.

[Translation]

Hon. Gerald J. Comeau: Honourable senators, I would like to ask the Leader of the Government in the Senate a question on the same matter.

When she makes inquiries, could the minister verify whether a study has been undertaken concerning the value of training provided by universities to our senior public servants, and find out whether they provide superior training to what is presently being provided?

• (1430)

I could cite the example of Université Sainte-Anne in Nova Scotia which, in my opinion, is one of the best universities in Canada and has an excellent reputation. It might even be better for our public servants to attend other universities rather than the existing language training school.

If I remember correctly, the previous government had looked at this approach. Could the Leader of the Government in the Senate, while she is making inquiries, determine whether any universities have been approached about this?

[English]

Senator LeBreton: The honourable senator is quite right. Public servants are all over the country. There is a belief that most of them are here in Ottawa, when in fact they are spread far and wide across the country. There are many facilities, including l'Université Sainte-Anne, which the honourable senator cited, and Moncton.

When I make inquiries about the report mentioned by Senator Chaput, I will be happy to ascertain whether they have looked at other facilities to provide this service and whether they have, in fact, even graded the potential of the superior training in all the facilities available.

FINANCE

FAMILY CAREGIVER TAX CREDIT

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate. In the last budget, this government created a tax credit that is absolutely worthless to a large number of Canadians. The Family Caregiver Tax Credit gives a 15 per cent tax credit to those caring for family members. It is a good idea. The problem is that it is non-refundable, which means that you cannot take advantage of the credit unless you are paying income tax. Therefore, it is not available to low-income families.

I think that a person who cares for an ailing family member should not be penalized because they do not make enough money. Why did the government not make the Family Caregiver Tax Credit refundable so that all families can take advantage of it?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, it is an interesting theory advanced by Senator Callbeck, but the fact of the matter is that many people are not paying taxes because of policies of the government that have reduced the overall tax burden. We have moved people off the tax rolls so that they have more money in their pockets. We have reduced the overall tax burden to its lowest level in nearly 50 years. Since 2006, we have cut over 120 taxes, and we have cut them in every way government collects them: personal, consumption, business, excise and more. As I think I said in answer to the honourable senator before, the total savings for an average family in this country is \$3,000. That is \$3,000 that we have put back in their pockets, money that they would previously have been paying out in taxes.

We introduced tax credits, such as the Working Income Tax Benefit, as the honourable senator mentioned, established the Tax-Free Savings Account, and removed over one million low-income Canadians completely from the tax rolls.

Honourable senators, in answer to Senator Callbeck's question, I believe that taking low-income Canadians off the tax rolls and providing an average of \$3,000 more per family more than compensates for the fact that, as the honourable senator says, we cannot give a tax credit because they do not pay taxes. However, they do not pay taxes because we took them off the tax rolls.

Senator Callbeck: The honourable leader has not answered my question. My question is with regard to the Family Caregiver Tax Credit and why not everyone can take advantage of it.

Forty per cent of Canadians who file income tax returns will never be able to take advantage of this credit because their income is so low. The government continues to bring in these tax credits that are of no benefit whatsoever to low-income Canadians.

The Canadian Association of Retired Persons, the Victorian Order of Nurses and the MS Society are just a few of the groups and experts who have been asking for this tax credit to be made refundable. Family caregivers give so much. It would be fitting for this government to give all of them a helping hand.

Some Hon. Senators: Hear, hear.

Senator Callbeck: Would the government please make the Family Caregiver Tax Credit a refundable credit?

Senator LeBreton: Actually, I did answer the honourable senator's question. I said that we took over a million low-income Canadians off the tax rolls. Therefore, people who paid tax previously no longer have to pay tax. The honourable senator asks for a refundable tax credit, but her party voted against our refundable Working Income Tax Benefit to help low-income Canadians. Every time we bring forward measures to cut taxes for families and small businesses, the honourable senator's party does not support them.

I will again state that I did answer the honourable senator's question. We removed over a million low-income Canadians from the tax rolls. Before, under the previous government, they were paying taxes. Now they no longer have to pay taxes. I am not an economist, but I would argue that the amount we have saved

low-income Canadians in not paying taxes is much more than the refundable tax credit that the honourable senator's party actually voted against.

Senator Calbeck: Maybe the government has removed some Canadians from the tax roll; however, my question concerns the Family Caregiver Tax Credit. Why is that credit not available to everyone?

Senator LeBreton: Honourable senators, the credit is not available to people who do not pay tax; and over a million people do not pay tax because we took them off the tax rolls.

VETERANS AFFAIRS

VETERANS REVIEW AND APPEAL BOARD— RIGHTS AND TREATMENT OF VETERANS

Hon. Wilfred P. Moore: Honourable senators, my question is for the Leader of the Government in the Senate.

The Veterans Review and Appeal Board has been accused of some pretty abysmal behaviour in its treatment of Canada's veterans. Today we learned that ex-soldiers appearing before the board were subjected to snide and disrespectful comments that left veterans shocked by this treatment. Personal attacks regarding not only veterans' honesty but also their physical appearances have surfaced. Yet, spokespersons for the board deny any such behaviour, despite the fact that besides those who have emerged to complain, veterans groups cite hundreds of phone calls and emails from angry veterans who are too afraid to complain about their treatment for fear of losing their cases.

I am sure the Leader of the Government in the Senate would agree that this amounts to shabby treatment of our veterans by this board. Has the government taken steps to rectify the situation? If, so could the leader indicate what steps have been taken?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I believe I answered a similar question last week. Obviously, these reports are very troubling to the government. The Minister of Veterans Affairs, Mr. Blaney, has said many times that our veterans deserve full support and all services available to them at all times. While the Veterans Review and Appeal Board is an arm's-length organization, the minister expects corrective measures to be put in place where privacy breaches occur and also that veterans, when they are being handled by the board, receive the fullest attention and respect and that any decisions by the department be clearly communicated to these veterans and also, at the same time, information provided to them as to how a decision, if it should go against them, can be appealed.

I think our record in treating our veterans is second to none, honourable senators. Clearly, no one condones this treatment of our veterans.

Senator Moore: Honourable senators, the leader mentioned the word "privacy." This government indicated, after several privacy breaches like the unfortunate Sean Bruyee incident, that it had cleaned up the situation. We now know this is not

accurate. Mr. Harold Leduc, a 22-year veteran who served on the Veterans Review and Appeal Board, has had his private records breached on two separate occasions. In the first instance, in 2009, 40 officials accessed Mr. Leduc's private file which contained personal information, including medical information. Recently, more of Mr. Leduc's private information has been released publically in another breach after the promise to not allow such a violation to occur again.

• (1440)

Honourable senators, Mr. Leduc claims he was the subject of great abuse at the Veterans Review and Appeal Board because he often sided with the veterans when it came to their claims and that he was subjected to harassment in an attempt to get him to quit. This, coupled with the privacy breaches regarding his medical files, points to a serious problem that exists at the Veterans Review and Appeal Board. In fact, the Prime Minister wrote to Mr. Leduc promising an appropriate response.

Mr. Leduc feels that a judicial investigation is appropriate considering what he has gone through, suffering harassment, abuse and having his privacy rights violated on two occasions. Could the leader please indicate to the Senate what response the government will take to rectify this unfortunate situation?

Senator LeBreton: Honourable senators, we believe that any breach of anyone's privacy, veterans included, is totally unacceptable. The Veterans Ombudsman recently, within the last few weeks, released a report citing breaches over the last 10 years.

Honourable senators, we put in place a 10-point plan to address the issues. I will have to get an update from the Department of Veterans Affairs to see what actions they have taken in this regard, but I do know that no one would ever condone breaches of privacy like this. Clearly, this is a situation that the minister and the government and officials in the department would hopefully take seriously because private information on veterans, or anyone for that matter, should remain private. There is no excuse whatsoever for breaching this privacy.

Senator Moore: I am pleased to hear the honourable leader say that. One breach is enough, but two and the subject being the same person? The Prime Minister has already written to him talking about the inappropriateness of the conditions he experienced, so I would really urge the leader to speak with the minister and try to get the bottom of this and get the situation cleaned up at this board so these veterans do not suffer this same type of treatment when they appear there in the future.

Senator LeBreton: I did mention that as a result of the breaches of Sean Bruyee's case, which went back over many years as well, this 10-point plan was put in place to deal with people who breach the privacy of veterans. It suggests strict disciplinary measures if such a breach takes place.

Honourable senators, I will obtain an update from the department as to what disciplinary measures or other measures have been taken to deal with people who have committed breaches of someone's privacy. They are reprehensible and not to be tolerated.

[Translation]

OFFICIAL LANGUAGES

LINGUISTIC DUALITY— CORNWALL COMMUNITY HOSPITAL

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate and pertains to the language issue at the Cornwall Community Hospital, which has been widely reported in the media in Quebec and the rest of Canada. I know that this issue falls under the Ontario legislature's jurisdiction since it pertains to the right of francophones to obtain services in French at the Cornwall hospital.

I would like to point out to the minister that a similar situation with regard to bilingualism occurred in the 1980s in Winnipeg. Despite the fact that this situation fell under the Manitoba legislature's jurisdiction, the Prime Minister of Canada at the time, the Right Honourable Pierre Elliott Trudeau, and the then secretary of state, who I believe was our colleague Senator Serge Joyal, demonstrated their strong support for Alberta's francophonie.

Moreover, I believe that the minister herself will remember that, despite the advice of some members of his caucus, Brian Mulroney, who was the opposition leader at the time, went to Winnipeg himself to show his steadfast support for linguistic duality and the francophone cause.

The statement that was made on television by a resident of Cornwall — “Canada is one country, one flag and one language.” — shows that language is still an extremely sensitive issue.

Does the minister not think that it is the Prime Minister of Canada's responsibility — not a constitutional responsibility but a political responsibility in this case — to very clearly state that linguistic duality exists in Canada and that the rights of our country's francophone population must be fully respected?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I am not familiar with the specific case the honourable senator mentions, but I thank him for the question. He points out that it falls within the jurisdiction of the Province of Ontario, but I have absolutely no hesitation in standing here and proudly stating the commitment of our Prime Minister to Canada's linguistic duality and our official languages. The Prime Minister's actions speak for themselves.

In terms of the Prime Minister's public and private department, he adheres to this religiously, and I have no hesitation getting up and absolutely applauding the Prime Minister's commitment in this area.

With regard to the situation in Cornwall, naturally the honourable senator would not expect me to have intimate knowledge of that. I was not aware of it. He talks about the Manitoba languages issue. If he checks the history, he is quite right that Brian Mulroney, as Leader of the Opposition, went out

and made a very strong defence of Manitoba languages, despite the efforts of the then Liberal government to try and embarrass him into a position which blew up in their faces because Mr. Mulroney would have none of it. I dare say that that single act by Mr. Mulroney contributed greatly to his forming a majority government in 1984.

[Translation]

THE ENVIRONMENT

CANADA'S OIL SANDS INNOVATION ALLIANCE

Hon. Rose-Marie Losier-Cool: Honourable senators, on the weekend I read an article in *Le Devoir* that said Environment Canada has loaned out a senior official for one year without pay to Canada's Oil Sands Innovation Alliance, an alliance that works for that Alberta industry. I know that public servants sometimes leave their jobs to go work in the private sector, and there is nothing wrong with that. However, this is the first time I have heard of a public servant being temporarily loaned to the private sector. What is more, this public servant, in his work for the federal public service, is being paid to monitor the oil sands industry.

Can the Leader of the Government tell us whether assigning public servants — who are supposed to be neutral and who are paid by taxpayers — to contentious private industries is one of her government's new policies?

[English]

Hon. Marjory LeBreton (Leader of the Government): I suppose the question is whether the honourable senator and all parliamentarians support Canada's oil sands. The government welcomes the industry's initiatives to form Canada's Oil Sands Innovation Alliance to improve the environmental performance of the oil sands operation. The public servant that the honourable senator referred to is Dr. Dan Wicklum, who was previously Director General of Environment Canada's Water Science and Technology Directorate. He is on assignment as the chief executive of this alliance. We anticipate that Dr. Wicklum's assignment will bring new opportunities to strengthen collaboration and understanding between the Government of Canada and the oil sands industry.

• (1450)

Dr. Wicklum is on leave without pay. While on assignment, he is subject to the Values and Ethics Code for the Public Service. The code is clear on the measures to be taken by public servants to avoid real or perceived conflicts of interest.

Dr. Wicklum's assignment agreement stipulates that he cannot provide advice to Canada's Oil Sands Innovation Alliance, or to its members, that relies upon information that is not publicly available or that was obtained in the course of his employment with Environment Canada. Obviously, there is a very clear barrier there. Of course, Dr. Wicklum cannot communicate with Environment Canada employees on behalf of the alliance.

At the end of the day, honourable senators, Dr. Wicklum has followed all of the proper procedures, and this is a free country.

[Translation]

Senator Losier-Cool: I am not at all questioning the abilities of this public servant, but when he returns to Environment Canada, after a year working for Canada's Oil Sands Innovation Alliance, will his work to monitor those same oil sands be deemed credible and objective?

[English]

Senator LeBreton: I would dare say that I would not call into question anyone's character. Obviously, Dr. Wicklum has made a clear commitment to this alliance. He has made a clear commitment under the ethics code not to communicate with his former colleagues at Environment Canada on behalf of the alliance. I would not for a moment question the abilities or the character of Dr. Wicklum. I am quite sure that should he return to Environment Canada after this assignment, he will conduct himself in a professional and ethical way.

ORDERS OF THE DAY

POINT OF ORDER

SPEAKER'S RULING RESERVED

Hon. Grant Mitchell: Honourable senators, I would like to draw attention to an article that was in *The Hill Times* yesterday. This is the earliest time at which I could draw attention to it. It is a quote from the Chair of the National Security and Defence Committee, Senator Wallin:

Under the Liberals, the committee spent nearly four years studying the RCMP, so the force has had no lack of attention. My feeling remains that too often this ended up besmirching the reputations of the many by associating them with the sins of a few. That will not be my approach.

I mention this for a couple of reasons, colleagues. First of all, it does imply that it was a Liberal committee. Of course there were Conservatives, and fine Conservatives, on that committee at that time, and I recall that I think every single report by that committee was a consensus report, so it would not have been anything intrinsically Liberal that was done; it was a consensus report.

The accusation in this statement that somehow a committee of this house, of this Senate, actually besmirched reputations is a very serious accusation. Of course the senator has every right to make an accusation like that if it is in fact based in fact. If the committee made statements or reported or concluded that something inappropriate or something incorrect did in fact besmirch someone's reputation, she is absolutely within her rights to say that.

However, because it is so serious, I think she should demonstrate, and I ask her to do so, with examples how in fact the committee did besmirch anyone's reputation in the RCMP

or anywhere else, and if she cannot, I would simply ask her to consider that in the absence of any kind of evidence to that extent, she is actually besmirching the reputation of that committee and the people who were on it at that time.

The Hon. the Speaker *pro tempore*: Is this a point of privilege or a point of order?

Senator Mitchell: A point of order.

Hon. Pamela Wallin: Honourable senators, I would like to speak to this point of order, if I could, for a moment.

I want to say in general that the honourable senator has been telling members of the press that he is being denied the right to look at the RCMP, so this is where the questioning came from. A reporter called me after he had made these statements, but I want to speak to the point that he raised.

I sat on the committee when it was chaired by one of our colleagues, Colin Kenny, when a final version of a report on the RCMP came out that was indeed attacking the organization. One of the suggested titles at the time, or certainly a phrase that the chair approved of, referred to the RCMP as a rent-a-wreck of a police force. That was not approved by the Conservative members on the committee.

In fact, if memory serves me correctly, Liberal members of the Senate, that summer, after the session ended and we rose, prepared their "own report" based on information that was collected by the Senate and put a report out that they called a "Liberal report," which made many accusations and I think some unfair commentary about our national police force.

I do not know exactly what his point is, but I do think that we have too often seen people cast the net a little widely and refer to the sins of the few as the problem of the many, and I do not think we should be besmirching the reputations of members of the RCMP, many of whom — all of whom — get up every single day and leave their homes to go and protect us and put their lives on the line.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tempore*: Is there further debate on the point of order, honourable senators? If not, the matter will be taken under advisement.

INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA'S DOMESTIC AFFAIRS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada's domestic affairs and their abuse of Canada's existing Revenue Canada Charitable status.

Hon. Doug Finley: Honourable senators, I rise today to hopefully add further context to the inquiry opened by Senator Eaton and expanded by Senator Wallace last week regarding the infiltration of foreign influence under the guise of Canadian charitable foundations.

Why are foreign foundations spending so much money in Canada instead of in their own or in needy Third World countries? It is important that Canadians are aware that American interests are behind many of the so-called “grassroots movements” taking place in Canada today. Shady foreign money is being used to influence Canadian domestic and commercial policy in an obscure fashion. U.S. charitable foundations, which may perhaps have their own economic and market-driven agendas, are contributing major dollars to pseudo and radical environmental groups in Canada.

• (1500)

There is nothing wrong with groups advocating for environmental conservation. However, there is a problem when their unstated intent is to undermine Canadian industries and do irreparable damage to Canada's economy. The environmental movement has been benignly trusted in Canada for far too long without being called into question. It is high time they were held to some account.

Reference was made by Senator Eaton regarding assertions that United States-based charitable foundations do not necessarily serve Canadian interests. We should ask ourselves why U.S. charities are concentrating so much of their funding activity in Canada. If the genuine concern was purely environmental, surely Canada would not be the only country under such considerable foreign intervention, especially when Canadian oil producers are already held to among the highest environmental regulations and standards in the world.

Does Saudi Arabia or Iran even have environmental standards? Technically, we do not know because they are dictatorship regimes that will not tell us. We can freely speculate, however.

Canadians deserve more information about the significant sums of cash flowing across the border. This money is being deployed to damage support for projects that stand to generate considerable economic activity and jobs in Canada.

The Tides Foundation is an organization that is “values-based,” focusing on “social change.” Tides funds over 230 groups, including a number of groups in Canada to “work in partnership with people whose work confronts issues like global warming, AIDS treatment and prevention, and economic disparity.” To this end, Greenpeace and the World Wildlife Fund have received grants from Tides Foundation totalling US \$350,000 for their “tar sands campaign.” These are the same people who fund “Rethink Alberta,” a campaign that fundamentally engages in disparaging Alberta tourism.

In 2010 alone, Tides USA paid a total of 36 organizations \$4.8 million for their participation in the anti-oil sands campaign. Corporate Ethics International, which runs the Rethink Alberta campaign, received \$1,450,000 from Tides in that same year.

To provide comparison, the Tides Foundation funded a rape intervention project in Sub-Saharan Africa with a charitable sum of US\$9,000; a generous donation of US\$9,998 was granted to a

project to support people with HIV in Indonesia; and a program in Tanzania received an impressive US\$5,802 for an AIDS prevention initiative. I am not criticizing anyone for providing relief to the Third World, but I ask honourable senators where they would place Tides' priorities. It certainly would not appear to be in Sub-Saharan Africa or in Indonesia.

It would seem that Tides is spending significantly more in Canada, one of the most environmentally secure and economically thriving countries in the world, with campaigns discouraging tourism and destroying industries than they are in developing countries.

The oil sands in Alberta not only create high-paying jobs, but they also generate revenue for governments and will continue to do so for decades to come. There are significant spinoffs for all Canadian provinces and territories, including job-hungry Ontario and Quebec. These revenues support local businesses, develop innovative technologies, boost the Canadian economy and support traditional charities.

For some perverse reason, Tides and other multi-billion dollar foreign foundations see it as a more effective investment to adversely influence Canada's economy rather than contribute to traditional charitable causes in far more needy parts of the world.

In what fashion do these campaigns provide any beneficial or charitable purpose to the Canadian public? It would look as if the only purpose they have served is influencing our national debate by making misleading and exaggerated charges. It should never be considered a charitable act to attack Canada's oil sands.

“Charity” is a word that, like many others in the English language, has become distorted, contaminated and debased over the centuries. It has migrated from being largely a religious-based concept — in fact, Saint Paul described charity as one of the three primary Christian graces — to the extent that it has now become part of the murky lexicon of financial, political and other institutions. Charities were originally established to assist in the relief of poverty, the advancement of education and religion, and for the benefit of the broader community. Of course, the charity concept has broadened, and rightly so, to include invaluable efforts to promote medical research and the like.

I fail to recognize where foreign-funded, radical, economically motivated environmentalists fall into any of these categories. Rather, these campaigns claim environmental concern, masquerade as “grassroots” movements, and undermine the credibility of Canadian industries.

The simple reality is we have to use oil for most modes of transportation. There is no other universally practical alternative right now. If the supply does not come from Canada, then it will have to come from somewhere else. Would we rather market share go to Saudi Arabia or Iran? No.

However, groups in Canada are receiving major grants from foreign foundations to achieve just that. Do you know what is particularly galling about that, honourable senators? They are receiving unfettered charitable status from the Canada Revenue Agency — that is what.

Using foreign money, these groups are selfishly slanting Canadian domestic policies in a shadowy and, I would say, Machiavellian manner. If we allow American groups to do this, why not facilitate other nations to do so, who, perhaps, are not quite so democratic?

Let me provide my colleagues with further contextual information.

Since 2003, the Hewlett Foundation, based in California, has granted a total of \$25.7 million for various projects to “address” the energy sector in Canada.

The Gordon and Betty Moore Foundation, based in California, has granted at least \$80 million to environmental organizations working in Canada.

Another organization, the Lazar Foundation, from Portland, Oregon, has furnished funds in a particularly targeted fashion on drafting reports targeting Canadian natural resources.

The most crucial part surrounding all of this is that not one of these foundations is headquartered in Canada and yet these groups are freely granted protected, nondisclosure tax status for interfering in issues of national importance. Canadian shell foundations are receiving large sums of money from trusts based in the U.S., and the Canadian public has every right to know about it. Canadian residents freely have such knowledge when it comes to foreign investment in business. While one cannot mix oil and water, when it comes to these so-called “charitable” acts from U.S. foundations, we can certainly mix oil and fish.

• (1510)

Let me tell you a story. Back in the early 2000s, British Columbia had a lucrative salmon farming industry, whereas Alaska’s salmon ranching industry was very much in decline. According to a 2011 *National Post* article, since 2000, the Packard Foundation, an American group based in San Francisco, has paid some \$83 million for various projects that have diverted market share away from B.C. farmed salmon toward Alaskan ranch salmon. B.C. salmon farming has been demonized by various organizations, all paid for by Packard, while the value of Alaskan ranch salmon has tripled in price.

Let us be clear: These are not campaigns opposing aquaculture organizations since they do not discourage buying Alaskan ranch salmon. These are campaigns motivated deliberately by American interests under the guise of erroneous public health concerns.

Let me read you two comments that tell the tale, both from a *Financial Post* article from January of this year. Regarding B.C.:

Marketing efforts for so-called sustainable fish going by the name of “Seafood Choices” have moved Wal-Mart to favour “Marine Stewardship Council” certified seafood — of which Alaskan salmon comprises 95%.

Regarding Alaska, since 2002, the ex-vessel value of Alaskan salmon has more than tripled from \$125 million to \$409 million.

Let no one believe that Canadians are entirely innocent in this nefarious adventure. In fact, everybody’s favourite fruit fly biologist, David Suzuki, has been one of the biggest obstacles facing the aquaculture industry in Canada. The David Suzuki Foundation released a report compiled by Dr. Michael Easton that made claims about the high levels of contaminants in farmed salmon. These damaging allegations have since generated unwarranted controversy within the industry and have done irrefutable damage to the Canadian aquaculture sector.

Not surprisingly, during the 2005 B.C. provincial election, NDP leader Carole James pledged to forbid expansion of the salmon farming industry. She remarked: “It’s my understanding jobs will be lost anyway, because people are losing their taste for farmed fish.”

Mrs. James’ rather careless view of an industry that puts thousands of people to work in her province is typical of the unbalanced approach between environmental rhetoric and the economic impact pronounced by the left.

Although the findings of this report have been repudiated extensively with firm scientific evidence, Suzuki has not stopped. The Packard Foundation paid the David Suzuki Foundation US \$762,000 for Pacific Salmon Forests, a project that produced a brochure entitled *Why You Shouldn’t Eat Farmed Salmon*. In 2010, the aforementioned and Gordon and Betty Moore Foundation paid the David Suzuki Foundation a further \$8.3 million to “establish an ocean plan for Canada’s Pacific North Coast.”

May I have a further five minutes’ indulgence?

The Hon. the Speaker *pro tempore*: Is five more minutes granted, honourable senators?

Hon. Senators: Agreed.

Senator Finley: I would like to quote a 2010 article filed by the *National Post*:

The Cohen inquiry, launched this week, will bring a microscope to the fish-farm industry on the Fraser River, where wild salmon stocks collapsed last summer. Last week, William Shatner —

— a great Canadian —

— endorsed a federal NDP push to bring more regulation to fish farms. And dozens of environmental NGOs (ENGOS) including Greenpeace and the David Suzuki Foundation are behind Ms. Morton’s efforts to restrict B.C.’s farmed salmon industry. More to the point, the environmentalists have millions of dollars to help their cause from a quiet but powerful ally: Americans.

This is not a conspiracy. The Alaska Seafood Marketing Institute admits it has received “lots of private foundation money” from billion-dollar funds such as the Gordon and Betty Moore Foundation, the David and Lucile Packard Foundation and the Pew Charitable Trust to help fight B.C.’s fish farms and pressure stores and restaurants to boycott their products. The foundations aren’t concealing

it, either. B.C. fish farms threaten Alaska's wild salmon industry, after all, and the coastal communities that depend on it. Nothing personal; this is business.

"The issue is not the environment. I think the issue is competition," says Vancouver seafood industry researcher Vivian Krause. "American wild-fish interests are thwarting the [Canadian] farm-fish interests in the name of science, sustainability and conservation." . . .

Even Ms. Morton, godmother of the anti-fish farm movement, acknowledges that too many anti-fish-farm groups have been captured by American interests. She says she cut her own ties from U.S.-connected funds two years ago.

Over the past decade, Canada's coastal communities have suffered substantial economic hardships, and the environmental activism funded by these foreign foundations has invested millions in linking Canadian salmon farming to the notion of environmental and health risks. Foreign money has effectively mobilized a narrative degrading Canada's aquaculture industry.

To quote an article published in the *UBC Press*:

In doing so, these networks have popularized the conflict, brought significant media attention to bear on the issue, and disseminated claims about Canadian aquaculture across a nation and around the world.

Honourable senators, the issue here is about accountability. In both the U.S. and Canada, a large number of groups that campaign against Canadian industries are funded by these billion-dollar foreign foundations. Their political interference significantly and sinisterly slants the debate in Canada and is likely to be geared in favour of foreign interests.

Regrettably, Canadian financial statements from charity and not-for-profit organizations fail entirely to require a disclosure of detailed information, which would facilitate transparency and accountability in terms of how the funds are raised and how they are used. Such information should be filed with the Canada Revenue Agency and be made public on a department's website in a complete and accurate format.

It has been estimated that since 2000, U.S. foundations have funneled well over a quarter of a billion dollars to various organizations and campaigns in Canada. However, Canadians are blind to this suspiciously duplicitous use of foreign money because they do not know it is happening.

We should be regulating our charities and making them more accountable for how they raise, spend and distribute money. As Senator Wallace eloquently highlighted, regrettably our rules are few. Principle one requires registered charities to spend 80 per cent of tax-receipted donations on charitable works. Principle two, as far as the Canada Revenue Agency is concerned, is that what they do with the non-receipted donations or any other income, including billions in government grants, is up to them.

Canadians need to march with their phones and computers to tell Carol Larson of the David and Lucille Packard Foundation, Melissa Bradley of the Tides Foundation and Peter Robinson of the David Suzuki Foundation that they will not stand for this.

• (1520)

Most importantly, I would also ask that all senators support any potential revision of Canadian tax legislation to ensure that Canadians are aware of this transparency gap and have the tools to follow the money. I am sure before this debate is complete that Senator Eaton will likely have a solution for this problem.

Hon. Daniel Lang: Honourable senators, like my colleague Senator Finley, I rise today to speak to the inquiry initiated by Senator Eaton on the involvement of foreign foundations in Canada's domestic affairs. You will recall that the senator brought to our attention that over \$300 million has been funneled into our country with very little, if any, public disclosure or transparency. I think it is also important to refer to Senator Wallace's presentation on this issue, as he outlined that currently there are no limitations regulating the amounts that a Canadian registered charitable organization can accept in the form of donations from foreign foundations. All such donations received from foreign foundations are nowhere to be found in any record that is publicly accessible in this country. He went on to say that there is currently no public disclosure requirement in this regard; there is absolutely no public transparency.

Simply put, honourable senators, Canada's present income tax treaty with the United States allows American foundations to contribute funds into Canadian charitable organizations. It is becoming more and more evident that in some cases these funds are being used for political purposes with very little, if any, public scrutiny or accountability.

As Senator Eaton informed us, it is estimated that hundreds of millions of dollars have been channeled into Canada through these foreign foundations. In fact, the information that is available for our consideration has to be accessed through the United States Internal Revenue Service, as the Canada Revenue Agency does not disclose the origin of foreign donations.

Furthermore, credit has to be given to a young woman from the West Coast, Vivian Krause, a single mother with a computer at her kitchen table. She has taken it upon herself to unearth this information and has spent countless hours going over U.S. tax returns. This process of channeling money from foundations in the United States into Canada has gone on for years without Canadians realizing this was happening.

Honourable senators, this, in my judgment, is wrong. We must take steps to revise the system and require greater transparency and disclosure so that Canadians can ask questions. We have to ask the question, "Why?" Why are these foreign foundations so interested in Canada? Why are they contributing so much money when we know there are greater environmental, social and economic concerns elsewhere in the world? To put it into perspective, the amount of greenhouse gases emitted by the oil sands in an entire year is equivalent to those emitted by China in two days. One would think that these groups should be more

focused on changing this, rather than deliberately discrediting an industry that is working diligently to meet its environmental responsibilities.

As we stand back and review the past 10 years, it is interesting to note the West Coast of Canada has become less and less accessible for any development as more restrictive land designations are put in place. Currently there are plans to develop a marine park from the tip of Vancouver Island to the Alaskan border, once again funded in most part by an American foundation.

More and more Canadians are beginning to ask, "Why are these U.S. foundations so interested in us?" There is a theory now being expressed in many quarters that the long-term objective is to influence public opinion in an attempt to prevent Canada from accessing the markets of Southeast Asia.

I should also point out that with only one purchaser for its oil, Canada sells at a significant discount to the United States. In a recent report of last week the discount was as high as \$24 per barrel.

Another theory also being expressed is that this is a well-financed, well-organized movement by foreign interests to make Canada one big park, to be the preserve of those who might visit us once a year. Only time will tell.

In recent years we have witnessed representatives from some of these organizations with designated charitable status actively supporting political parties at the municipal, provincial and federal levels. The revelations that have been brought to the public's attention have very serious consequences for our country. It is a sad day for us as Canadians if we allow these foreign organizations to continue to take advantage of our tax system for a purpose that it was not designed to accommodate. This has to be of concern to Canadians because we have a large amount of tax-exempt money coming into our country, which is influencing public policy. Even more disturbing is that there is no disclosure of where the money comes from or why. This is not acceptable and we must have transparency and disclosure.

It is interesting to note that it is much easier for American organizations to donate to Canadian charities than vice versa. This is because Canadian registered charities are not permitted to make grants to non-qualified organizations.

I think common sense dictates that tax-exempt organizations should provide full disclosure of foreign financing to the Canadian public. There certainly needs to be some explanation as to where this money is going and why it is being spent. We should make sure that all information regarding the fundraising of tax-exempt foundations is made available for full public disclosure.

The lack of transparency and disclosure is a very broad issue that allows for the potential of abuse.

I refer honourable senators to the 2009 report by the Centre for Tax Policy and Administration entitled *Report on Abuses of Charities for Money-laundering and Tax Evasion*. This report outlines ways in which money can be laundered into our country

for a number of illegal purposes, including tax evasion and terrorism. These are also very serious issues that need to be considered.

Perhaps, honourable senators, we need to revisit the way that charities are defined in Canada. In order to be registered as a charitable group, current regulations require that the group must achieve at least one of the following purposes: the relief of poverty, the advancement of education, the advancement of religion, and certain other purposes that benefit the community in a way the courts have said is charitable. The fourth purpose is vague, as the parameters are quite broad. This category has been defined over the course of recent history through case law and precedent.

I do not believe that it was Parliament's intention that charitable groups would be funded by foreign agencies without full disclosure and transparency. I do not believe it was the intention of Parliament to allow groups with charitable status to affect the outcome of municipal, provincial or federal elections.

There are two major aspects that we need to pay attention to. The first is what do we, as Canadians, feel is charitable? The second is what kind of disclosure and transparency should we demand?

My recommendation to improve our current system and decrease the amount of potential abuse that can occur would be to re-examine the definition of charity. I believe that some of these groups would be better defined as a lobby group or a non-profit interest group. This status would differentiate them from the charitable status that they currently have. While non-profit groups are permitted some tax exemptions, I think this shift would better indicate whether the organization is a charity, interest group or a lobby group.

Honourable senators, people have the right to spend their money however they wish, but I think we need to have the discussion of what charity means.

Senator Mitchell: Honourable senators, I absolutely agree with Senator Lang, for whom I have great respect. We need to have this discussion. I am just struck by the irony of it.

• (1530)

I am noticing the Finley-Eaton tag team. They are getting good at this as they have done this a few times — you have to admire it. The first time they did it on the old freedom of speech indignation and self-righteousness where they stood on their hind legs and said that Ann Coulter from the United States was being thwarted in her right to speak freely in Canada because the university asked her to be careful. They did not shut her out the room or anything like that. Ann Coulter said that Alberta should be the fifty-first state. That is okay, and I bet you she was brought in by some kind of charity that probably had a tax deduction to do it.

The second case where they did this was on ethical oil. However, they forgot one important feature of their ethical oil argument: The U.S. should buy our oil because it is ethical and it is more secure. That is true, but they forgot to point out that the Maritimes are buying the same oil as the U.S., and it is perhaps not so ethical or secure; so, who is worried about that?

Now we have the third effort in this regard. I want to point out that there are some fundamental weaknesses in this one just as there were in the other two.

[Translation]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I would like some clarification. I thought that Senator Mitchell was going to ask Senator Lang a question. I see that he is using his right to speak.

[English]

The Hon. the Speaker pro tempore: Does the Honourable Senator Mitchell have a question?

Senator Mitchell: This is on debate; I am debating this.

The Hon. the Speaker pro tempore: Before the honourable senator proceeds with his debate, some had questions to put to Senator Lang. May I interrupt?

Senator Mitchell: Honourable senators, I am sorry. I will start over, though.

Hon. Michael Duffy: Honourable senators, I have a question for Senator Lang. In the interests of transparency, I found it interesting that some of the main donors who seemed to be trying to interfere in the Canadian economy actually have big stakes in the Canadian economy. Would Senator Lang agree with me that the next time Canadians go computer shopping, they should remind themselves that the David and Lucile Packard Foundation is one-half of the Hewlett-Packard that makes computers and printers, which we probably all have in our offices. Would the honourable senator agree that it is important to remember about the Gordon and Betty Moore Foundation that Gordon Moore is the co-founder of Intel, the computer chip maker, and we all have these devices in our offices? Would the honourable senator agree that Canadians should remind themselves of who is on the side of Canada and who is only on the side of themselves?

Senator Lang: I have to agree with the honourable senator. I want to make an important point: We have to recognize that many people outside our borders are very interested in our country. We are privileged to be Canadians and to have the country we have and the resources we have. We have a responsibility to develop them in a responsible way not only environmentally but also economically. Other interests out there, as Senator Finley and I pointed out, have some economic interests in keeping our resources and directing them in such a manner that is to their benefit and not necessarily to Canada's benefit.

It is important in this debate that we understand, for example with the proposed gateway pipeline, that outside forces are paying indirectly to put up opposition and create public opinion against the project. In fact, I would go so far as to say that we have already seen how technologies are affecting our ability to go ahead with a project like this when one particular non-governmental organization proudly stated that they got more than 600 people to apply to be interveners in the process. That will cause a delay of up to a year in any definitive decision being made about that pipeline. If I were a senator from Alberta, I would be very

concerned about the regulatory process in place to review all the information environmentally, socially and economically to look at the viability of this project. Now, we are seeing a political warfare where suddenly we are arguing over whether there should be a pipeline, not whether we can build it and what the risks are. The public is getting lost in the process, which is a shame, honourable senators. I do not like the fact that we are being influenced by big money outside our borders, when this is a Canadian decision.

Hon. Don Meredith: I thank the Honourable Senator Lang for his presentation. Something near and dear to my heart in Canada is charities. There are a lot of government cutbacks, and charities depend on organizations to solicit funding to ensure they survive. I do not agree with American influences undermining our natural resources; I do not support that at all. However, I am looking at the charities and the day-to-day operations that they experience. They are not getting federal, provincial or municipal funding and are looking elsewhere. How do you propose that they carry on their work and advance the causes of poverty, education, at-risk youth and religion? How do you propose that?

Senator Lang: Honourable senators, that is a very good question. I think I can speak for both sides of this house when I say it is a concern for all that we continue to have prosperous charitable institutions in this country and that they are well financed. The question we are putting before honourable senators — one that we have to look at from a non-partisan point of view — is why there is so little, if any, public accountability and transparency with the type of money that is coming into this country? That is the point I am making. For our Canadian charities, the laws are probably sufficient. However, changes have happened in our system, in particular technology changes with the advent of the Internet, Facebook and Twitter, where we see a much more political involvement by certain organizations that cross the line of what a charity is. That must be looked at.

I also want to say loudly and clearly from the perspective of all that we obviously want the charitable institutions in this country to carry on and get the money necessary to be able to do it. I am sure that if they knew and Canadians knew what we know and are debating here, Canadians would have concerns for their country. For example, the proposed northern gateway pipeline could be the lifeblood of our Canadian economy to provide the tax dollars to allow those charities and to allow us to meet our social obligations. If it is not built, what is the alternative? Do we sell our oil for less than the world market price to one particular buyer? We should be looking at all options, and the honourable senator from Alberta would have to agree with me on that. I hope he will support us as we move along.

The Hon. the Speaker pro tempore: Honourable senators, are there further questions? On debate.

Hon. Grant Mitchell: Honourable senators, owing to the fact that I stood down to allow others to ask questions, I ask that the clock be restarted. Fair is fair, and it is freedom of speech, for crying out loud.

Honourable senators have to admire the Finley-Eaton tag team — they are good at politics. They are sitting together, and they punch above their weight, one has to say, on ethical

oil. However, they forget, of course, that by saying the U.S. should buy our ethical oil, what are we saying about the Maritimes who buy the same oil from the Middle East and from other countries that some construe as less than ethical? That is a facile and transparent argument, and that is why it did not work.

The freedom of speech argument was to let Ann Coulter talk and to defend her right to speak while not defending the right of people in this country to stand up and fight for issues that are absolutely within the context of public policy debate in this country.

• (1540)

Let me go on. The other side's arguments go like this: First, there is some kind of tax advantage or tax expenditure implicit on behalf of the Canadian taxpayer when international foundations are allowed to help fund foundation activities in Canada. Of course, there is no tax expenditure because the foundation here does not pay tax and the foundation there does not pay tax. There is no tax expenditure, period. In fact, where there is tax expenditure is on the other side — the companies that hire the government relations firms and the heavy-duty law firms to fight their case through the process on environmental issues. They get to write that expense off and that saves them tax money and, in effect, costs the Canadian taxpayers.

If honourable senators want to talk about tax savings, it is not the foundations and not the charities, but the businesses. I am not against that, but they get to write off their expenses against money that they make in Canada. Of course, the rest of the money goes out of Canada — and we are not talking about that — along with many jobs.

Second, when that does not work because they kind of twist off that argument — that is, the people who make this case, the Conservatives — and they say, “No, the problem is that at least some charities simply should not be allowed to participate in political activities.” They morph “political” and “partisan.” “Partisan” is different, and they do not participate in partisan activities — that is, supporting a political party — or they lose their charitable status, period.

Let us talk about participation in political or public policy debate. Which dictator would decide which groups can participate, with their charitable status, on which issues to influence which public policy debate? I wonder how many churches get funding from international foundations on issues so that they can participate directly in the public policy debate on issues like abortion or gay marriage. How many gun advocates and gun advocate groups in Canada receive charitable foundation money from gun advocates and gun advocate groups in the United States? I wonder who is doing the research on that. Let us have an inquiry.

Let us talk about the Fraser Institute. Their entire reason for being is public policy intervention in the public policy debate. How much money do they get from international foundations? Honourable senators, do you know what they say in their annual report? They say that 9 per cent of their contributors are international. They do not say what percentage of the \$10 million

that they raise every year is international. Conceivably, it could be \$9.99 million. Some 99 per cent of what they raise could come from international foundations. However, they do not declare that. Let us talk about the Fraser Institute and what kind of money it gets from abroad.

Which dictator would say that it is okay for this group with its charitable status to participate in public policy debate, but it is not okay for that group to participate in public policy debate? What would the difference be? The difference would be whether or not that group takes the position that the government likes. Which dictator would decide? That dictator, and that would be a fundamental problem.

The third position is that they fall back to the idea of openness. Senator Wallace is a very capable lawyer, obviously, from capable of the legal presentation that he made the other day. I do not think many environmental groups in this country would be opposed to declaring. In fact, I have one here. In its annual report, the Pembina Institute already does. It lists who gives it money. One of them is the Natural Resources Defense Council, an American group. It is one of the single biggest contributors.

Honourable senators, go to the Fraser Institute's annual report and you get a disingenuous “9 per cent of our contributors.” They do not tell you how much of their money in total comes from abroad. Therefore, yes, if you want to go there and open it up and have disclosure, excellent. I do not think that anyone would disagree with that. I certainly do not think that environmental groups are concerned about it. I can go on. They also get money from Suncor, Shell Canada and Cenovus. It is not like the energy industry itself is not funding these groups such as Pembina, which does participate on the environmental side to protect the environment.

Then, when all else fails, they fall back to innuendo and aspersion. We heard the minister talk about how PACs, political action committees, are now surreptitiously investing in Canada. He did not mention any particular cases and was not able to tell us which PACs. Senator Eaton talked about how these groups, the foundations in the States, fund — what are they? — front foundations in Canada, yet there was no mention any of these front foundations. Now we hear about shady money. If there was ever an effort to intimidate, to attack and to cut the legs out from under them, that is exactly what it is. We now see money-laundering. This is hot on the heels of one of the ministers over there comparing environmentalists to white supremacists.

What is becoming of this government and its inability to accept freedom of speech, and debate, and so on? You are with us or you are against us, absolutely.

The other thing that they have to keep in mind is this: What cost is there in the message they are sending with this particular activity in Canada? Hot on the heels of the public relations disaster of Durban, the Keystone project is delayed for a good deal of time. What kind of message do the people in the United States who want to stop that — environmentalists, coal interests and others — take from a trumped-up debate in Canada by this government that says, “We do not even want to talk about the environmental side of things. We do not even want to demonstrate that we are open to public discussion and policy debate about the environmental side of things.”

Honourable senators, let us look at some of the substance of their argument. The premise is that if one does the environment, then one wrecks the economy. How yesterday is that? How 19th century is that? I will tell you what will wreck the economy —

An Hon. Senator: Old school.

Senator Mitchell: Yes, old school. You just keep doing what you are doing on climate change and you will wreck the economy absolutely, infinitely. In many ways, environmental groups are saving the economy and opening up possibilities for new economic endeavours. Do you know what? Dealing with climate change and greenhouse gas emissions will not hurt this economy one iota. It will promote this economy in many different ways, make us competitive and creative, reinvigorate us, create jobs that we have not imagined, and sustain international markets for our oil and gas and natural resources industries.

Then, honourable senators, you start to say, well, if it is that there is not really a tax advantage for anyone on the environmental side, and if it is that charities have a right to participate in the public policy debate — because, if environmental ones do not, then neither would church ones, the gun control ones, the Fraser Institute, and the other economic right-wing think tanks have a right, so that does not work — then the fallback position is that we have to get disclosure. Well, no one is arguing against disclosure; let us have disclosure. Let us get the Fraser Institute in there to tell us who, exactly, is funding them.

None of those things work. Innuendo and aspersion, I know, does not work; we all know that. Why is it that we are doing this? Well, I do not want to be cynical about it, but I am thinking that the government, the governing party, is so effective at raising money on hot-button issues. However, the crime agenda has passed on its way, because we passed that bill; and gay marriage and abortion are off the radar, apparently. What is the other one that has just been dealt with? Oh, gun control. Those hot-button issues are gone. I do not want to cast aspersions, but I am wondering if, perhaps, we are looking for another hot-button issue in the emails and letters that are going out right now saying, “Give us some money so that we can defend our economy against the vagaries and the power of those environmental groups.”

You know what is really at stake here, honourable senators? What is really the issue here is a government that is intimidating the democratic process. They are taking, I believe, surreptitious, aggressive, intimidating and bullying tactics to put the chill on people who want to disagree with them. These people have every right to appear before a process that has been set up by their government to review economic projects, and this government is saying that somehow there is something improper about that. Here is a government that has 1,500 communications experts — 1,500 probably cost them well over \$100 million a year. They have the advantage of the Prime Minister’s office, of his pulpit, which is now, of course, by definition, a bully pulpit. They have the advantage of his level of exposure and of the public purse, billions of dollars. They have an oil industry that gets more funding in a single day than these foundations have ever received in the last 10 years. Yet, they are saying that, somehow, they are at a disadvantage in that debate. Why can they not just stand point for point, argument for argument, and debate for debate against these groups and allow the strength of their message and of their case, such as it is, to win on its own merits?

• (1550)

That is what democratic debate is. That is what freedom of speech is. One of our colleagues in this house, former Senator Taylor, once said to me, when we were in the house in Alberta together, “Often, you have to be really, really careful because the cure can often be worse than the disease.” I know that there have not been excesses in the way we have handled our environmental review of projects and that our economy has been developed very, very aggressively. It is not as though there is a shortage of jobs in Alberta. There are so many jobs we cannot fill them. I am looking at a government that somehow, at some level, is so insecure that it has to bully and intimidate.

If I can go back to my Monty Python examples, in *Life of Brian*, the poor knight has just had all four limbs chopped off. He is there on what is left of his legs, and he is saying, “Come back and fight, you coward! Come back and fight!” In a sense, you are cutting the legs out from under these environmental groups. They do not have anything like the resources that you have, and they have an absolute right to raise legal money wherever they want, to fight this fight and to debate this debate. You are trying to intimidate them, in spite of the fact that you would stand here and talk about freedom of speech.

I will close with a quick statement by Prime Minister Benjamin Disraeli, who said that a Conservative government is an organized hypocrisy. If ever there was an example of that, it is this debate right here.

Hon. Donald Neil Plett: Honourable senators, I would like to join the Eaton-Finley tag team and therefore move the adjournment of the debate in my name.

(On motion of Senator Plett, debate adjourned.)

[Translation]

OVERSEAS TAX EVASION

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Downe calling the attention of the Senate to:

- (a) the problem of Canadians evading taxes by hiding assets in overseas tax havens;
- (b) the harm this does to Canada, both in terms of lost revenue and its effect on those Canadians who obey the law and pay their fair share of taxes;
- (c) the pathetic efforts of the Canada Revenue Agency to discover, halt and deter overseas tax evasion, and how, in comparison to those similar agencies in other countries, CRA falls short;

(d) the fact that this, plus recent scandals involving the CRA could lead one to conclude that there are serious problems at the Agency; and

(e) concerns that this situation amounts to a lack of leadership on the part of the Government of Canada.

Hon. Grant Mitchell: Honourable senators, I have a question for Senator Carignan, if he grants me leave to speak to this inquiry today.

Hon. Claude Carignan (Deputy Leader of the Government): Leave is granted.

Senator Mitchell: Thank you very much. Honourable senators, I would like say a few words about the issue of tax evasion.

[English]

Tax evasion and the CRA inquiry were so appropriately and effectively presented the other day by Senator Downe.

[Translation]

Honourable senators, today I would like to talk about a most serious issue: overseas tax evasion and the inability of the Canada Revenue Agency to address this appalling crime.

[English]

As the Honourable Senator Downe pointed out, Canadian tax cheats, who greedily stash their money abroad in known tax havens like Liechtenstein, Switzerland, and Panama, are not only breaking the law but also depriving Canadians of important government revenue badly needed to fund our health care system, repair crumbling infrastructure, such as roads and bridges, pay the salaries of countless hard-working, honest, law-abiding, tax-paying Canadians, and now, I guess, put more money into fighting those nasty environmental groups.

[Translation]

The worst part, honourable senators, is that in this era of economic austerity — when many Canadians are praying that they will not be the next factory workers or public servants to be handed a pink slip, when the government is cutting costs, when services to Canadians will inevitably be reduced due to budget cuts, when the Prime Minister and his government have old age security in their sights because Canada apparently cannot maintain the existing system — it is distressing to see the Canada Revenue Agency giving preferential treatment to the rich and privileged people who try to hide their money offshore to avoid paying their fair share.

[English]

You will recall Senator Downe mentioning something called the Voluntary Disclosure Program, or VDP. The VDP allows taxpayers to come forward, without penalty or prosecution, to correct information or to disclose information that they have not reported during previous dealings with the CRA. Among other

criteria, for disclosure under the VDP to be valid, it must be voluntary. CRA's own definition of "voluntary" disqualifies disclosures where:

- the taxpayer was aware of, or had knowledge of an audit, investigation or other enforcement action set out to be conducted by the CRA or any other authority or administration, with respect to the information being disclosed to the CRA, or
- enforcement action relating to the disclosure was initiated by the CRA or any other authority or administration on the taxpayer, or on a person associated with, or related to the taxpayer . . . or on a third party, where the purpose and impact of the enforcement action against the third party is sufficiently related to the present disclosure, and
- the enforcement action is likely to have uncovered the information being disclosed.

[Translation]

Many wealthy tax cheats who were caught hiding assets in Liechtenstein took advantage of the Voluntary Disclosure Program, which is clearly against the agency's own guidelines.

[English]

CRA has previously assured Canadians that none of the individuals with accounts in Liechtenstein were eligible because compliance actions had been brought against all 106 of them. However, CRA has allowed at least 20 tax cheats, with hundreds of thousands, if not millions, of dollars hidden in secret bank accounts, to avoid penalties and prosecution. This kind of special treatment, we can all appreciate, is little short of despicable. No one is above the law, and this tough-on-crime government should not be bending over backwards to allow these tax sneaks to escape fair and deserved punishment for what they have done.

[Translation]

The fact that these tax cheats can use the VDP, even though the agency had established clear eligibility criteria that said they could not, shows that there is a huge problem within the organization.

[English]

I turn now to the Enforcement and Disclosures Directorate evaluation mentioned by my colleague. This internal review highlights the misaligned priorities of the Canada Revenue Agency. The report suggests that CRA employees are declining to pursue cases that may be of significant criminal non-compliance with the tax code because of resource limitations and workload pressures. This is deeply concerning. The report notes that convictions resulting in less than \$100,000 in tax on which convicted accounted for 84 per cent of all convictions. In all regions, with the exception of Quebec, just over 60 per cent of cases result in tax on which convicted of less than \$40,000.

These findings support observations by program staff that the agency's officers are choosing smaller cases that represent quick hits.

• (1600)

The CRA should be focusing on the big fish, not the minnows. Wealthy Canadians are hiding millions in tax havens and getting away with it as a result of CRA's misaligned priorities.

[Translation]

According to Gail Shea, the Minister of National Revenue, Canadians will not tolerate some people benefiting from an unfair advantage by not paying their taxes. I suppose the minister is consoling herself with the belief that, by targeting people who hide a few dollars of their income, rather than dealing with the more risky cases of serious fraudsters, the agency will enjoy more small victories.

Minister Shea needs to show some leadership on this issue and tell her staff to rethink its priorities. All Canadian taxpayers would be furious to learn that the minister is letting such things happen.

[English]

Honourable senators, veteran humorist Sam Ewing once said that "The government deficit is the difference between the amount of money the government spends and the amount it has the nerve to collect." This government must do the right thing and show the nerve to pursue all those who were found to be hiding money to the fullest extent possible. Breaking rules for those who have already broken the rules is just plain wrong, as we all know, and honest, law-abiding, tax-paying Canadians deserve better from their government, especially at this time of fiscal restraint.

[Translation]

I will conclude by asking the government the same questions as Senator Downe. Law-abiding Canadians who pay their taxes want to know why some people are getting preferential treatment. Why is the government giving wealthy people a tax holiday? Canadians want to know where the minister responsible for the Canada Revenue Agency, the Honourable Gail Shea, is? Why is she letting these things happen? Why is she letting fraudsters, who hide their money in tax havens, escape justice here in Canada? Canadians want to know this: who exactly is she protecting?

[English]

It was Denis Healey, a former British Chancellor of the Exchequer, who remarked that "The difference between tax avoidance and tax evasion is the thickness of a prison wall." All evidence to the contrary, it would seem the Harper government prefers there be no wall at all. Under this tough-on-crime government, where Canadian tax evaders are being treated like tax avoiders, I would be remiss if I did not quote another famous British politician, former Prime Minister Benjamin Disraeli, who said, "A Conservative government is an organized hypocrisy." He also said that he was becoming tired of Toryism. Aren't we all?

The Hon. the Speaker pro tempore: Honourable senators, if there is no further debate at this time, is it agreed that this matter can be adjourned once again in the name of Honourable Senator Carignan?

Hon. Senators: Agreed.

(On motion of Senator Carignan, debate adjourned.)

LIQUEFIED NATURAL GAS

INQUIRY—DEBATE ADJOURNED

Hon. Richard Neufeld rose pursuant to notice of February 29, 2012:

That he will call the attention of the Senate to the issue of liquefied natural gas in Canada and its associated benefits.

He said: Honourable senators, in today's day and age, the developing world is striving to establish the same standard of living that we as a nation enjoy. It is no secret that with the rapidly growing world population and increased use of new technology in households and industry alike, energy demands are increasing at an exponential pace.

By the year 2035, it is estimated that the world's population will reach nearly 9 billion people, with the developing world and Asia accounting for nearly 90 per cent of that number. Subsequently, the International Energy Agency forecasts an energy consumption increase as much as 45 per cent within the next 20 years. To put this into perspective, oil demand will increase from 87 million barrels per day to 99 million barrels per day by the year 2035. Furthermore, in 2005, worldwide natural gas consumption reached 87.6 trillion cubic feet per year, 5.1 billion tonnes of coal per year, and 182.5 million pounds of uranium per year. Undoubtedly, those numbers will surely increase over the coming years.

Canada is a leader in energy development and innovation. In fact, the energy and natural resources sector generated \$133 billion, 11 per cent of Canada's gross domestic product, and directly employed nearly 759,000 people in 2009. Considering our abundance of resources, Canada has an unparalleled opportunity to advance its economy in the energy sector, creating many lucrative opportunities for job growth and government revenue alike, to provide for an ever-increasing demand in health care, education, and other imperative services upon which our society depends.

Honourable senators, a potential source for this advancement that has not been fully actualized is the production and distribution of liquefied natural gas, LNG. Canada currently places third in natural gas produced worldwide, behind the United States and Russia. With the worldwide advent of shale gas, we must seize the opportunity before us.

In 2009, Canada exported \$77.9 billion of energy products, of which 97 per cent was to the United States. Currently, 88 per cent of all natural gas imported into the U.S. in 2010 came from Canada. As our only customer, the U.S. anticipates self-sufficiency and the ability to export this resource by 2020, only eight years from now. Clearly, Canada must look for other opportunities to export its abundance of natural gas; our nation has great potential to tap into this market.

Natural gas has an interesting history. Its first known use dates back to 500 B.C. when the Chinese used crude bamboo pipelines to harness natural gas from surface seams to light temples and distill seawater. Since its initial development on Canadian soil more than one century ago, an expansive network of pipelines that transport our crude oil and natural gas has been constructed, spanning more than 540,000 kilometres country wide. Its uses are

nearly endless. Nearly 3,000 products we use every day contain petro sources. In addition to heating, drying kilns, electrical generation, and cooling, many would be surprised to learn that natural gas is used to make some of the clothes we wear, the utensils with which we eat, the medications that heal us, plastic products, and even women's make-up products like lipstick and blush.

The trademark feature of natural gas is that it can be easily transported not only through pipelines as a gas but also via ships in liquid form. This is achieved by supercooling the gas to negative 160 Celsius, causing it to take liquid form. LNG transportation evolved in the late 1950s and early 1960s, through the establishment of routes via tankers between Louisiana and Britain and the second-largest route between Alaska and Japan. Since 1969, Japan remains the world's largest importer of LNG and now attains its supplies from Indonesia, Australia and Alaska. Japanese power plants have been the largest single market for LNG since the 1970s. Canada has a geographical benefit to trade with Asia in this regard. Natural gas is said to be a transition fuel because it releases 30 to 40 per cent less greenhouse gases than other fossil fuels.

• (1610)

Honourable senators, Canada has an immense opportunity at hand. Worldwide demand for energy is constantly increasing, especially in Asia. What better way to supply that need than through our existing network of pipelines and the ability to easily and cheaply transport LNG via ships? Canada's natural gas sector is at the forefront of economic stability and potential. In conjunction with the oil sector, it provides an estimated 500,000 jobs for Canadians. Additionally, the industry has invested \$53 billion in 2010 and an estimated \$54 billion in 2011 in Canada. It is evident that the industry is on the rise. The potential for job growth, corporations and government revenues is a reality. In fact, more than 30 per cent of the industry's core workforce is expected to retire within the next decade. If demand for energy continues its upward climb, the petroleum sector anticipates hiring an additional 130,000 workers by 2020. This is great news from which all Canadians will benefit.

The benefits of LNG are spread across residential and business industries alike. For example, Vedder Transport, a trucking company in B.C., will cut fuel costs by nearly 50 per cent by fuelling their trucks with LNG. They expect to operate a fleet of 50 LNG-powered trucks this year. In Quebec, Robert Transport will operate a fleet of 180 LNG-powered trucks for its routes through the Quebec City area and Greater Toronto Area. From the West to East Coasts, Canadian businesses are realizing the benefits of this abundant resource. Their efficiency initiatives help their customers save money and, in turn, help create more jobs. Additionally, the use of LNG in comparison with diesel can reduce greenhouse gas emissions by at least 25 per cent.

According to the Canadian Energy and Pipeline Association, the annual value of energy transported over regulated pipelines to both Canadians and export customers has exceeded \$100 billion each year for the past five years, but this is just the tip of the proverbial iceberg. Canada has an unprecedented opportunity it must seize with fervor. Asia is our next goldmine. As mentioned before, the Asian market is projected to exponentially grow over

the next few decades, and Canada is in a strategic position to meet their demand with our abundant supply, all the while securing reserves for our own domestic use. A large LNG terminal in Kitimat, B.C., is already in the works and is well funded by private enterprises such as Encana, EOG and Apache. The opportunity to service Asia is unparalleled. LNG can be transported to Asia two days sooner from northern B.C. than from Los Angeles. Time is money.

At one time it was assumed that Canada would have to import LNG to meet our own needs but, with the massive shale and tight gas fields, we find ourselves with trillions of cubic feet of natural gas to develop and spur our economy. For example, in the mid-2000s, there was an import LNG plant proposed at Kitimat. Since then, this plant owned by Apache, Encana and EOG will actually be an export terminal, with two additional terminals proposed by Shell Oil and Douglas Channel LNG. This anticipated growth is as a result of new technology in the development of shale and tight gas. For example, B.C. produces approximately 1.2 trillion cubic feet of natural gas per year and is the second-largest producer of natural gas in Canada. It is estimated that in northeast B.C. alone there are approximately 1,000 trillion cubic feet of shale and tight gas, 25 to 30 per cent of which can be produced with today's technology and has been safely and successfully produced for nearly a decade. Natural gas is the cleanest burning fossil fuel we have and is said to be the transition fuel to the future. Just imagine the opportunities, but we must realize that time is of the essence. Shale and tight gas is abundant in Canada and, for that matter, in many parts of the globe.

Maximized usage of LNG undoubtedly cannot be realized overnight. Barriers to progress lay on the road ahead, including lengthy permit application timelines and environmental review and approval processes. Rightfully so, as any environmental project requires research, scientific study and opportunity for the public's opinion. However, approval processes have become increasingly lengthy, with no additional value to the time spent. A meaningful review process with in-depth research can be conducted in a shorter, more efficient period of time, saving the public tax dollars and creating jobs more quickly.

The government has great potential to play a more active role in this regard. Firstly, clarification of permitting procedures, such as engineering studies and environmental assessments, could be made more easily available and understood, a necessary step in understanding current energy projects and the establishment of future undertakings. Secondly, the government could launch campaigns to promote the sharing of accurate information by supporting the development of a national network of organizations and individuals active in the energy field. Results of energy research could be more easily disseminated to stakeholders and the public. Lastly, the government should support education programs in energy development and the continued education of existing workers to advance their skills. Programs should begin at the adolescent level to prime Canada's future energy leaders for innovation and leadership in the industry.

Honourable senators, time is of the essence. The opportunity for Canada to hold the post at the forefront of LNG development, production and exploration will not be here forever. Eventually, we will be in competition with other

markets. For this reason, we cannot languish. We must not only secure our energy future with a stable supply of our own resources, but we must endeavour to create more jobs and a source of government revenue that is cycled back into the economy. The public needs to know that life will change if we do not seize this opportunity before us.

Honourable senators, I invite you to join me on this quest to maximize our resources and guarantee Canada's energy future, and I hope this chamber will be the place from which this enterprise will derive.

(On motion of Senator Carignan, debate adjourned.)

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF DEFENCE AND SECURITY RELATIONSHIPS WITH THE UNITED STATES—DEBATE ADJOURNED

Hon. Pamela Wallin, pursuant to notice of February 29, 2012, moved:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the state of Canada's defence and security relationships with the United States; and

That the Committee present its final report to the Senate no later than December 31, 2013 and that the Committee retain, until March 31, 2014, all powers necessary to publicize its findings.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Joan Fraser: Honourable senators, I wonder if we could ask what this involves. It is a two-year study, nearly. It could involve very large amounts of travel and other special expenses. I am not quite sure of what the final goal of it is. "Canada's defence and security relationships with the United States" is a vast topic. I wonder if we could be given some detail.

Senator Wallin: I would be delighted. It is a very large and comprehensive topic. This is why I think the Defence Committee has travelled to Washington every year, save one when we did not go because Parliament prorogued.

As honourable senators know, the Department of National Defence, like all departments of government, is going through the strategic review process. We have already seen this process under way in the United States. Fairly significant reductions have already been announced, many of which will impact us in the future and some of which are impacting us today, such as the training mission in Afghanistan. Issues like that will overlap with the next motion when it comes forward, No. 68. This relationship that we have with our largest ally and trading partner is now dovetailing. Since each of us will probably be dealing with reduced budgets, and because interoperability, as we have learned

in Afghanistan, Libya, Haiti and many other places, is absolutely key at this point, these discussions that we have among and between our counterparts in the United States and ourselves are really important.

• (1620)

As honourable senators may be aware, we have just recently reached an agreement on a bilateral, combined defence plan. Canada has signed a memorandum of understanding, among other things, to fill its strategic satellite communications for the next 20 years. It is one of the issues. Two countries are coming up almost immediately and, in the course of the next couple of years on specific deadlines and beyond the border, the perimeter, security talks — those are very real and very much part of our mandate here.

The complex relationship that we have with the U.S. and our other "Five Eyes" partners, if you will, is fundamentally changing. I was at a conference last week in which I listened to an American general, a British general, and others lay out the importance of allies being able to talk with one another, not just through organizations like NATO — but obviously that is on the table, too — but through this kind of daily contact that we need to have. In that way, there is interoperability technically, but it is also there in terms of contact, ideas, policy and direction.

This kind of trip to deal with all these issues is key at this point. As I say, we have been doing this since the committee was first invented and I hope we will continue to do it.

Senator Fraser: I have a supplementary question. Is the honourable senator talking about, for a two-year study, just one trip to Washington? Let me give an example of why I suspect the honourable senators may find themselves doing more, particularly in connection with the perimeter arrangement, whatever that ends up being.

In January I had the privilege of accompanying the Speaker on a trip to Colombia. We visited, among other very interesting places, the Port of Cartagena. We were absolutely astounded to realize that, on the Caribbean coast of South America, that port has security arrangements so tightly entwined with Washington that they have — I forget how many live cameras — but 20 or 40 live cameras all over the port feeding directly to Washington — a live feed to Washington.

When they unpack a container — and, if memory serves, they unpack about 40 a day, and they really do unpack it down to the last little sheet of Kleenex in that container — there is a camera feeding every move directly to Washington. There is also a live data feed telling them every truck that comes into that port, with its licence plates, where it goes in the port, how long it is there, who it is registered to and what it is carrying. These enormously elaborate security measures are absolutely inextricably linked to Washington.

I do not know whether honourable senators will be going to facilities around the perimeter to investigate what might be involved with this. I would hope the honourable senator would, depending how much money is available. However, from what the honourable senator said, it sounds as if she was planning a single trip to Washington and that would be that.

Senator Wallin: At this point, honourable senators, this is what we are planning and proposing, because that is one among many issues on the table. It is a little bit why we have put the timeline out, because I think honourable senators might well see interim or separate reports before we get to some final report on that.

This is what these discussions are about, if we are to free up the trade and the access at the shared border — the 49th parallel in this particular case — then it means that we will be sharing that information both ways. A container unpacked on the Canadian side will therefore be free to travel and move even inland inside the U.S. and vice versa. That is what we are trying to do. These discussions have been on and off again for 10 years, but have only seriously been really focused upon in the last year with the agreement of the President and the Prime Minister to actually move this agenda forward.

There are all kinds of issues that I cannot begin to recite to honourable senators, but I am sure what is encompassed in the perimeter agreement has been read about. We will be meeting with NORAD and NATO. There is a big meeting coming up in Chicago, and a parallel meeting in Camp David. Those issues are there. There are the procurement issues around the F-35s. The list is long, because almost every single defence matter involves the two of us due to the shared border, the need for interoperability, our NATO alliance and our “Five Eyes” agreement.

Yes, I think it would be important for us to keep in contact on a regular basis, which we try to do to the best of our ability with technology and taking advantage of people who travel here. However, there are times when one needs to have conversations with people and those are best done face to face. It is important that, at the very least, we make a trip to Washington in the near future.

Senator Fraser: If I understand the honourable senator, there will, in fact, be a whole lot more than one trip to Washington. Perhaps they are not currently planned, but are looming. I do not know whether Senator Wallin is aware of a speech I gave here a few days ago —

Senator Wallin: Yes, I listened to it.

Senator Fraser: I am not picking on the honourable senator or the Standing Senate Committee on National Security and Defence, but I strongly believe that it is important for us to have a fairly detailed understanding of what it is that a committee hopes to study and accomplish with such a study before the Senate approves the order of reference. I would have appreciated a bit more specific detail about what was likely to be involved in this particular work.

Senator Wallin: I would be happy to send the honourable senator information if she wants to read it in a more detailed way. I have two-page summaries and a 500-page document. I will send it to all honourable senators if they want to read it.

This particular committee has a very complicated mandate, and it is hard to reduce it to one or two pages. I am trying to give the broad strokes here in terms of how diverse the issues are.

As I said, we are hoping to make at least one annual trip to Washington, which is the habit of this committee, with the exception of 2008, I think. That is essential. We also plan to make the very best use, as I have said, of technology and of others coming to this country for a variety of reasons to keep this dialogue going on a weekly basis, if not more.

The issues are extremely complicated. In the second motion, we are talking about Afghanistan, which is a separate vantage point or lens on the same kind of issue because the security is so tied. The Americans are literally providing security for us in that area. We have tried to divide it up into those two areas, because the second motion has to do with some of the larger Allied approaches to this, whether that is through NATO and the change in thinking. As I said, this big meeting coming up in Chicago is about really looking at the question of NATO, its future, and how we will proceed with these decisions.

It is about using the one lens to go at it specifically and see what that relationship is, how it plays out, what it means, and what the effects of transformation are. The cuts in the U.K. have been dramatic and severe. Those are changing the very fundamental relationship of joint security. We must see what are coalitions of the willing and/or NATO, as well as coalitions of the willing inside NATO, because we have members of NATO that have very different capabilities and many political caveats on what their levels of participation can be.

• (1630)

It is important that we bring all those facts to the table in engaging in the discussion that is now well under way in this country about the transformation of the Canadian Forces: what we are going to look like, what we need to be anticipating, the kinds of missions that we are going to be going on and how our allies will be participating, what they are prepared to put forward, what we are prepared to put forward. We are going to be doing these things together.

Even the United States of America has made it clear that it is not capable because of reductions in spending to actually take on solo missions. We have to do this in a different way. It fundamentally impacts the decisions being made as we speak about the shape and how the CF will be transformed. It is a word that is kicked around, but it does mean rethinking what we are capable of doing and the pieces of the puzzle that need to come together for us to be able, first and foremost, to defend this country and, second, to be a willing and valuable ally with those that share common cause.

Hon. Wilfred P. Moore: May I ask a question of the honourable senator?

The Hon. the Speaker *pro tempore*: Yes, Senator Moore.

Senator Moore: Honourable senators, I am thinking about Senator Comeau's caution a little while ago with regard to committees seeking mandates and the expense involved. This is more than two years out. The honourable senator is talking about a range of things, and it sounds like she is talking about all the chiefs of staff of the Canadian military. I thought that was their

job. However, I think the honourable senator would be wise to heed Senator Fraser's suggestion and come back with some details. Do this work in a sectioned, reasoned manner with expenses that our budget could handle. I would ask Senator Wallin to look at that, please.

Senator Wallin: A copy of a budget has been discussed and will be forwarded to the Standing Senate Committee on Internal Economy, Budgets and Administration. I am not sure I understand the honourable senator's question. Does he want the budget discussed here?

Senator Moore: I would like the honourable senator's committee to consider breaking up. She is talking about the whole range of all activity in Canada's defence — now and what it may be in the future and all of that — in terms of its relationship with the United States. That is massive. That is why we have all the people over at DND. I would think the honourable senator would be wise to pick an element of that, study it thoroughly within our budget, and come back and do another section.

The Hon. the Speaker pro tempore: Senator Wallin, before you proceed to answer, the time for this motion has expired and there are other honourable senators who want to pose questions. Are you asking for more time?

Senator Wallin: Please.

Senator Fraser: I would perfectly be content to allow the time that has elapsed count as my time since I was the first up on my feet. That would allow Senator Wallin more time to address this matter now or at a future date.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Senator Wallin: Thank you very much; I appreciate that gesture.

I see the honourable senator's point that somehow he wants to have a series of separate studies that will be set out over several years. The point is that we are at a crossroads right now, and some key decisions are being made. It is hard to separate off one topic and say we are just going to look at bilateral cooperation inside NORAD or Canada's role in NATO without bringing in the other topics. That is why we did a general one. We hope, as I said earlier, that we might do separate studies as he suggests, with the intent at some point in the not-too-distant future of putting this together to be part of the debate and the decision making and reflect on what we see happening.

The NORAD and NATO pieces are separate but related: the combined events plans, operations in Afghanistan, procurement issues, and certainly the border perimeter talks. They are part of a puzzle, and it is hard to separate them and say we are just going to look at the issue of NATO. It is hard to do that when we see some fundamental changes in the works right now not only in Canada but also amongst our allied countries. There needs to be an understanding of what is going on there because it impacts what we will be deciding and the shape of those decisions here. It is hard to separate things off.

We have to have a general view to bring the pieces of that puzzle together. Then I hope we could have some broader statement to make about what we think in an informed way as a committee is a way to go ahead, move ahead and make some of the choices. We are all going to be making choices in all of our allied countries about how to spend and use more limited resources, and wherein and in what circumstances. That rethink is going on globally. It is important that Canada is part of that and that this committee, which serves this house on those issues, is well-informed so that when we report to you, and in turn to the Canadian public, there is information there that is key to the decision-making process.

Senator Moore: I have a supplementary. May I suggest that I think it would behoove the honourable senator and the committee members to have in the Canadian defence chiefs, sit down with them, discuss this with them, try to determine what they see as being our needs — the equipment we may or may not have, what we might be doing — and discuss what they might like to see happen vis-à-vis allies. However, I think you have to know where you are at home first. I think you could do that study, come back and report to the chamber.

Senator Wallin: We are in the midst of hearing from these people on a weekly basis. We heard a week ago from the three chiefs of the three forces. We are about to hear from the defence minister, the Chief of the Defence Staff, people in charge of Canada Command, and people who do foreign operations. It is an ongoing process. As the committee sits on a weekly basis, we are gathering that information, talking to people about what their priorities are, hearing about what they think is happening in our allied countries and how that will impact us. I would be happy to send to the honourable senator the list of witnesses we have had since we have come back into session.

Hon. Mobina S. B. Jaffer: I congratulate Senator Wallin for the extensive work she and the committee do on these very important issues for the safety of our country.

With regard to what Senator Comeau said to us as the chair of the subcommittee, and when I look at what your order of reference is, and from what you have explained, may I ask that before we approve it the honourable senator set out in detail here — not hundreds of pages — exactly what the committee is attempting to do?

This is so general, and we were reminded by Senator Comeau that as a Senate we have to take more responsibility on the order of references. May I please ask the honourable senator to consider doing that, and then we can look at the motion?

Senator Wallin: Thank you. As I have tried to explain to Senator Moore, the issue is that we are attempting not to narrow it down to one aspect or one sliver of it. I do not think you can get a view of the question of transformation and what we should be thinking about in terms of what our military, our Canadian Forces, should look like in its composition and its structure and how the decision making goes on. I do not think you can do that by looking through a narrow lens. That is exactly why we are trying to do the big picture, at which point we will then, from that

process, be able to drill down or decide what parts of this process might benefit from our study, our help or our insight. At this point we are getting from all of the key players their particular vantage points.

• (1640)

As honourable senators can well understand, each force inside our CF believes that its work and its role are most important and its procurement projects are the most important. We are trying to see the broad picture of what transformation is like before we drill down into specific, very narrow studies. If we are to have influence and impact in terms of the transformation process, it has to happen relatively quickly, while larger questions about the future of NORAD or the structure of NATO might come out later as something that we would have a specific view on and a much more narrow focus.

It may sound unwieldy, but the transformation process is actually under way right now, redefining the structure of the military, of our Canadian Forces as they exist — lessons learned from Afghanistan and what other countries are doing because of budget impacts. All of those things have to be brought together, and then we have to look at the broader questions of things like the impact of cybersecurity or the use of UAVs as opposed to planes. I think we need to look at that, which is why we have proposed these two motions.

Our largest defence partner and ally is making those decisions right now, as are we. In fact, they are further down the road in terms of financing. Looking at the lessons learned from the last 10 years would include what we learned in Afghanistan that helped us in Haiti and Libya. We want to put those things through a fairly particular lens and do that relatively quickly.

Honourable senators will see the dates in this motion because, as I said several times, I would like to see a larger report a little further out. Right now we need to do the initial study and get that one out there while these decisions are still in train. As a Senate committee, we have the ability to access the wisdom of not only those in our own country but those in other places and to put valuable advice on the table as to what we should be doing or at least what we conclude should be done.

Senator Jaffer: I can see from the way the honourable senator speaks how passionate she is about the study she wants to do and the details she wants to cover. However, the reality is that almost three months have passed this year, so this will be a nine-month study. I respectfully request that she set out for us what she wants to cover in the nine months.

Senator Wallin: Factually, the dates are December 31, 2013, with the committee retaining powers until March of 2014, the end of that fiscal year, to deal with that report. However, this process is already in train, if you will, hearing from the heads of the forces and the key decision-makers at this point, the people who are influencing that. We have been interspersing a lot of the testimony. We have just completed a report on reserves, but throughout that we have been bringing people in who actually have views on this whole process. The reserves were a key part of that as well, tied much more specifically to the Afghan mission. We are looking to broaden that a bit. That is the kind of

information that will be gathered, including a trip to Washington as soon as is feasible. We want to find a window between now and the U.S. election so that we can get that information while they are still in the decision-making process and so are we.

Short of a list of names, which I am also happy to share at some point, we have a proposal for committee witnesses from now until the end of June. That is in train with continuing into September. It is mapped out in a detailed way.

Hon. Hugh Segal: Will Senator Wallin take a further supplementary question?

Senator Wallin: Yes.

Senator Segal: Senators have asked whether the work can be broken up into pieces and slices. I am sure they are well-intentioned in so doing. Could my honourable friend share with the chamber her own views of the risks of not having a broad oversight report that takes a strong view of the full dimensions of the Canada-U.S. defence relationship and, secondarily, the lessons learned with regard to the other motion? Are there risks in doing it piece by piece? If so, could she share her views as to what those risks might be?

Senator Wallin: I did hint at that issue, which is that time is of the essence right now, not only in this country but in those that matter most to us in terms of defence and security matters. These issues are all related and intertwined. I think we are in desperate need in this country of an overview from the outside. The transformation process has been wrestled with, to a certain degree, inside the Department of National Defence, inside that establishment. The purpose of this committee, and all Senate committees, is to stand back some distance, objectively look at what is in train and ask whether that is the right direction; is that what we, based on all the testimony we gather, think is the right thing to do? If we start to hive off a particular study and report and go down just one path, we are going to be silent on other key issues that are being decided at this moment.

I do not want to risk that in the sense that if we want to have an impact before decisions are finalized, not *post facto*, we need to do this with some speed and focus. The overview is to let us look at what we think the shape of the Canadian Forces should be, contemplating what the threats might be. None of us have crystal balls; no one could have predicted 9/11. However, we know more now than we knew 10 years ago about what shape our threats will be, both on the security front and on the defence front. We are dealing with asymmetric warfare. We will no longer find front lines with good guys on one side and bad guys on the other. We are fighting inside and amongst civilian populations. Counter-insurgency coin, as it is called, is what was employed in Afghanistan. We have learned a lot about how that works and how it does not work.

I am pleased to say that Canadians have been leaders in that regard. The military leadership in our allied countries raised this and said, "You are the people who seem to understand this intuitively and you are the ones we can learn from." Even though it may have been General Petraeus who authored the first counter-insurgency document, he is turning to us for advice. We need to learn that ourselves and implement those lessons learned

into our own transformation process, into reshaping our own military, because we are going to have a different kind of warfare.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Senator Cordy: I have a question. I wonder if I could do it on debate.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question? I put the question before Senator Fraser rose the first time, and I said it was moved by Honourable Senator Wallin, seconded by Honourable Senator Martin, and then we had debate. I am rising again to ask whether honourable senators are now ready to have the question put.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Are there further questions, honourable senators?

Senator Cordy: May I ask questions now?

The Hon. the Speaker *pro tempore*: On debate.

Senator Cordy: I will let Senator Mitchell speak and then perhaps ask him some questions.

• (1650)

Hon. Grant Mitchell: I want to encourage Senator Wallin in the emphasis and priority that she placed on our committee doing a study of the F-35 procurement process. I hope that we do support this, and that will indicate the Senate's support for this important study.

Senator Wallin is saying that we will have some general discussion and make a trip to Washington to fill the hopper with ideas, and then we will determine the areas that we want to dig down in as we move forward as a committee.

In that context, will Senator Wallin commit to have the committee use perhaps an hour or two of its time on a Monday afternoon to decide, as a committee, what areas we would choose out of this hopper of ideas to drill down on so that, as a team, we can decide whether to pursue the study and, if so, the parameters of the study?

Senator Wallin: We have had much discussion about this. We have been discussing it at committee and in steering committee, and there is agreement on these issues.

Senator Cordy: Is this questions?

The Hon. the Speaker *pro tempore*: Senator Wallin is responding in debate on your time. You gave the floor to Senator Mitchell, and Senator Mitchell is engaging in debate.

Senator Cordy: Someone told me I could not ask a question.

Hon. Gerald J. Comeau: I rise on a point of order. I think we are now into an area that is a little far from what is provided for in our rules. I do not think there is any provision for a two-way debate. My understanding is that Senator Wallin exhausted her time and that Senator Mitchell got in on debate and wanted to change the rules in order that he could ask questions of Senator Wallin. I do not think our rules provide for that.

If we change rules on the fly, we must be very careful. I know that we can do virtually anything we want with unanimous consent, but we have to be careful with that as well because unanimous consent can soon turn into the way we do things here.

I suggest we return to the existing rules. Senator Mitchell can make a speech, but I do not think we can get into a two-way discussion.

Senator Fraser: I think our rules do provide a great deal of latitude for us to do something approaching what we are doing now. It is perfectly within the rules for senators to speak and to invite comments and questions. If Senator Mitchell, in the course of his remarks, had invited Senator Wallin to comment on the substance of them, that would have covered the issue quite neatly, and he would be bound by the usual rules in terms of time with which we are all very familiar.

This is not the first time I have seen this kind of exchange occur in the Senate under our rules. I think it is very fruitful. I think it is very instructive for all of us to be able to engage in this kind of debate, and I would urge Your Honour so to find.

Senator Comeau: For Senator Mitchell to use only a portion of his speaking time and to invite comments from other senators is perfectly in order. However, I believe that asking a question was out of order. Perhaps the way in which Senator Mitchell phrased his comment invited the exchange that Senator Fraser is looking at. That would be perfectly in order.

[Translation]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, the point was that a senator can decide to yield his or her time to another senator. Then the other senator must accept. If that senator accepts, he or she is able to speak for the remainder of the time allotted to the senator who has yielded the floor, unless he or she decides to yield it in turn. We need to be clear: if Senator Mitchell gives his remaining time to Senator Wallin, she will have the 15 minutes and his time will be exhausted.

[English]

The Hon. the Speaker *pro tempore*: The honourable senator could use the portion of his time that she needed. I believe that that was understood by Senator Mitchell. Senator Mitchell invited another honourable senator to engage with him during his time for debate.

I will now ask Senator Wallin if she wishes to accept that invitation.

Senator Wallin, do you wish to accept Senator Mitchell's invitation to participate in his time?

Senator Wallin: Yes, thank you. I am not sure what the request is. These matters have been under discussion with members of the committee, of which the Honourable Senator Mitchell is a part, including with the deputy chair, who is a member of the party across the way. There has been complete agreement that looking at the state of the relationship between Canada and the U.S. on defence and security matters is key. It is an issue that is fundamental to our own national security. It deals with matters that Senator Fraser raised about how goods and people will cross the border and what kind of security arrangements will be possible in the future. The discussions and negotiations are under way as we speak. The two countries have instructed their officials for the better part of the last year to be examining this, and we are coming up on some key deadlines for the two countries to announce new mechanisms for dealing with security matters at the border.

These are very specific matters. I do not think they are open ended or vague; I do not think they are unclear. The *Beyond the Border* action plan is a very clear document that spells out a couple of dozen issues that need to be wrestled with where the joint activities and rules and regulations have to be agreed upon. There are deadlines attached to these things, which explain the timing of an interim report. We have to get a handle on this and identify the issues that we are dealing with, and we have to determine where we are going with the shared defence relationships. Both matters are spelled out in documents. We are looking at plans for how our countries will share the defence of our border and the defence of the North American continent, and at how we might go to a third place together and on what terms.

This is very specific. It is not a vague idea of just getting together. We have a shared beyond-the-border plan and we have to look at whether that can work, how it will work, and whether the agreements our two countries are coming to are effective and efficient and working. Looking at the defence and national security relationship of this country with that of our largest ally, the United States of America, seems to me to be a very specific kind of reference.

• (1700)

Many issues come in around the outside that may or may not be the subject of separate reports at another occasion, such as procurement in general and if those kinds of plans might be more shared. We are seeing some evidence of how the U.K. is dealing with its European neighbours in terms of shared activities and shared resources. We need to look at that with our primary defence partner, which remains the United States of America.

We are also in other arrangements. We are going to try to get the overview report on the status of where we are at in this relationship with the issues laid out on the table. I said on several occasions here this afternoon that we have a timeline that would allow us to look at some other issues that might present themselves. Once we do the initial study, we will know where we have to drill down further. However, we need to set in place where we are at today with the issues we are dealing with in this relationship, with the *Beyond the Border* deal on the table and with the combined defence plan. That is what we have to assess now before we can take that further. It is specific. I am sorry if I am not making that clear, but it is not a vague topic to me. The

notion that we will assess where we are at on those two key aspects of our relationship is where we must start and in a timely way, because decisions are being made as we speak.

The Hon. the Speaker *pro tempore*: Further debate? Are honourable senators ready for the question?

Hon. Terry Stratton: Honourable senators, I would like to enter the debate. We seem to be at an impasse.

The Hon. the Speaker *pro tempore*: Senator Cordy had asked first to enter the debate.

Senator Stratton: Ask for a status report.

Hon. Jane Cordy: Honourable senators, I want to thank Senator Comeau very much because these kinds of debates are extremely important. We have to ask questions. It is very challenging for the Internal Economy Committee and the subcommittee specifically, which Senator Comeau chairs, to comment after the Senate has passed an order of reference. These are the times to ask questions on an order of reference. I liked Senator Fraser's idea that perhaps the Chair of the Defence Committee would come back to the Senate as a whole with additional information, and not just forward it to the senator at her office. That would be a great idea.

The order of reference talks about relationships between Canada and the United States. We know that those relationships are key because they are our neighbour by geography and they are our friend by history. We work closely with them, and that is extremely important.

When I heard about the bilateral agreements, NORAD was mentioned, which is between Canada and the United States. The bilateral defence plan was mentioned, which again is between Canada and the United States. Defence and security, the border and perimeter are between Canada and the United States. However, then we got into NATO, which involves not only Canada and the United States, but also a number of other countries. I have to wonder if the committee plans to look at NATO from the Canada-U.S. perspective only, or at all NATO countries. I get a bit nervous about this.

In terms of the committee's budget, we all understand the trip to Washington, but will there be a trip to Colorado to look at NORAD? Senator Fraser raised the security aspects. Will we be looking at the Mexican border, for example?

It is important for the Internal Economy Committee to know exactly where the Defence Committee plans to travel. It was mentioned that the Defence Committee will be studying defence and security issues and procurement in general. Senator Mitchell talked about looking at the procurement of the F-35s, which would be a great idea because that would be specific to the United States. Other issues such as goods and people travelling across the border could be looked at.

Senator Wallin talked about looking into the Canadian and American reserves and about looking at the U.K. and its relationship with the European Union. She said "other

countries,” but I assume she meant the relationship with the European Union. When we are looking at it from a financial perspective and talking about the relationships, I would like to know what relationship she means. Obviously, we have bilateral arrangements and agreements, but if we are looking at NATO, the U.K. and the European Union, then it opens up a whole new avenue.

I understand that one cannot be specific because one does not want to limit what the Defence Committee is doing, given the great work they do. However, when the Senate is approving an order of reference and the Internal Economy Committee is approving a budget for that order of reference, it is extremely important that we have the specifics. Are we looking at just Canada and the United States, or are we looking at all the NATO countries as well? The idea is great, but I, too, would like a little more detail, as Senator Fraser requested earlier.

Senator Stratton: Honourable senators, I am suggesting that we seem to be at an impasse. It would be nice if we were able to do things by consensus, and we are not far from that, really. The Senate could ask for interim reports as we proceed, which would accommodate both sides. We would then be aware of how this will unfold. Senator Wallin has described it in broad scope and the importance of it, but she cannot do more than that at this stage. It would be important to reach a conclusion to this by asking for interim reports as we proceed and deal with it in that fashion.

Hon. Daniel Lang: Honourable senators, we should follow along with what Senator Stratton has suggested and simplify what we are doing.

I want to assure honourable senators that a work plan has been put together. It is clear and specific, and it was done in conjunction with all members of the committee. I want to emphasize that we all discussed and went through what the prospective budget would be.

My understanding is that we are asking for the authority to go to the Internal Economy Committee with a work plan that is clear and concise and that lays out what we will be doing in the forthcoming two years to provide some perspective. It will then come back before the Senate for authorization.

I want to assure the honourable senator that we have no intention of going to Colorado or to Europe. We will take one trip to Washington with the idea of discussing two major issues. The first is transformation, which the United States Armed Forces and the Canadian Armed Forces are going through and which will have serious implications. The other major issue is Canada-U.S. Shiprider, which is a major piece of legislation that will be coming up. Shiprider was tabled in the last Parliament and it basically concerns border issues and what we face.

I want to say to the honourable senator opposite that we will provide a work plan, and that is what we thought was being asked for.

Senator Fraser: Honourable senators, I am sorry, but I am not on the committee so these are not my issues, which is why I started asking all of these questions. Of the two things that Senator Lang said, what was the second one?

Senator Lang: The terminology for it is the Canada-U.S. Shiprider legislation. It was debated in the previous Parliament. Senator Wallin talked about Homeland Security, and Shiprider comes under that. It will be forthcoming for debate in the next couple of years in this place because the Defence Committee is in charge of looking at that legislation when it appears. It is one area that we will discuss when we go to Washington.

Senator Jaffer: In light of what has been said, I move the adjournment of the debate.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

• (1710)

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker pro tempore: All those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All of those opposed to the motion will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: The nays have it. The motion is denied.

I will do it one more time just to make the record clear. All of those in favour of the motion please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All of those opposed to the motion please say “nay.”

Some Hon. Senators: Nay.

[Translation]

Senator Carignan: Honourable senators, this mandate is very confusing and has raised many questions. Commitments have been made to provide clarification on certain elements. We have already been discussing this for an hour. It also seems as though the committee members will have to talk among themselves to ensure that the document presented is as accurate as possible and is satisfactory to both sides of the chamber.

I therefore move that the debate be adjourned and that we come back to this issue when we have more information.

[English]

The Hon. the Speaker pro tempore: Is it agreed, honourable senators, that this debate be adjourned as proposed?

Hon. Senators: Agreed.

(On motion of Senator Jaffer, debate adjourned.)

MOTION TO AUTHORIZE COMMITTEE TO STUDY
STATUS OF AND LESSONS LEARNED DURING
CANADIAN FORCES OPERATIONS IN
AFGHANISTAN—DEBATE ADJOURNED

Hon. Pamela Wallin, pursuant to notice of February 29, 2012, moved:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the status of, and lessons learned, during Canadian Forces operations in Afghanistan; and

That the Committee present its final report to the Senate no later than December 31, 2013 and that the Committee retain, until March 31, 2014, all powers necessary to publicize its findings.

Hon. Joan Fraser: Does Senator Wallin wish to speak to her motion?

Senator Wallin: I certainly could at this point, yes. The motion, very much like the other one, is very specific. It says that the Standing Senate Committee on National Security and Defence be authorized to examine and report on the status of and the lessons learned during the Canadian Forces operations in Afghanistan.

We have a timeline on that. Many of the topics that we have been discussing in the last few minutes come into play there in the sense of how the lessons learned from our activities past and present — because we are still very much in a training mission — will impact what is going on and what the future will be inside the Department of National Defence and the Canadian Forces. Like all departments and agencies of government, they are attempting to pursue savings through strategic review and strategic operating review.

In conjunction with these things, DND and the CF are in the midst of, as we have been discussing, a transformation process as they adapt to changing budgetary environments and changing military and strategic circumstances. Their goal is, of course, to sustain and even improve the CF's operating capabilities.

This bears close scrutiny by the committee, under its order of reference approved by the Senate on June 22, 2011.

The Canadian Forces, in the meantime, have withdrawn combat forces from Afghanistan. They have undertaken a successful mission transition, which we have already had some testimony on, and are committed to keeping approximately 950 military personnel in Afghanistan to train national security forces until 2014, in an operation called Operation Attention.

Recently, the U.S. Secretary of Defense announced that the U.S. would start bringing its combat mission there to an early end, starting in 2013, raising consternation among U.S. allies, including Canada, given the prior understanding that the U.S., by

far the biggest player in Afghanistan was, like Canada, committed to the security of Afghanistan through to 2014. This change in their decision-making process and this policy will affect us immediately.

The committee seeks to undertake a formal assessment of Canada's involvement in Afghanistan by reviewing the combat and transition missions and by studying Canada's training operation to come to an overall assessment of Canada's defence involvement in Afghanistan. Therefore, the committee seeks permission to make a fact-finding visit to Kabul to study the training mission firsthand, interviewing Canadian and Afghan personnel on site and including Afghan trainees. The budget has been prepared and will be submitted to Internal Economy upon their request.

Senator Fraser: Will Senator Wallin take a question?

Senator Wallin: Yes.

Senator Fraser: This proposed order of reference is, even as written, rather more specific than the one we have just been discussing. I congratulate the chair and the committee on that. Certainly, after that long and not always happy war, for the Senate to study lessons learned from it would be a valuable exercise.

However, in the preceding debate on the earlier motion, Senator Wallin also raised, several times, the question of Afghanistan. Rather like Senator Cordy, I was particularly struck by the repeated references to NATO, which, of course, is a core element of what happened in Afghanistan. In terms of travel plans, may I ask if the committee would also be seeking to travel to other NATO capitals? I am thinking, obviously, of London, Paris, and Brussels, but there are other countries involved in NATO, some of them perhaps not so nice to visit in winter. Is the honourable senator thinking only in terms of a visit to Afghanistan, and what will the honourable senator do if there is not enough money in the whole Senate budget?

Senator Wallin: Both of these motions that I have put forward are very specific. In No. 67, it was one trip to Washington. This is one trip to Kabul. I am not sure of the procedure here, but I am happy to read into the record the proposed budgets that have been agreed to by Liberal members of the committee. I am happy to do that. I do not think I am stepping out of line. These have both been agreed to. I am not foreseeing any other travel. The travel I am asking for is the travel we are seeking. They have been budgeted, the intentions are as clear as we can make them in the four lines necessary, and we have tried to capture that in these motions that we have put forward. No, I do not anticipate other travel, if that was the very specific question.

Senator Fraser: I thank the honourable senator for that. I confess, I am a bit out of my procedural depth at this point. It has always been my understanding that, for arcane reasons that escape me, we were not supposed to submit budgets with orders of reference. I think that is an insane system because it prevents the Senate from understanding what it is voting on. I wonder if the honourable senator would be willing to take the adjournment for a day or so to get proper procedural advice on how and whether we can get a firmer idea, as a Senate, of what I gather the committee has very properly thought might be appropriate to spend?

Senator Wallin: As I say, I have budgets here, and I do not want to breach the rules. I would be happy to adjourn briefly, but I do think this process is in train. We must appear before Internal Economy. We have to continue and make plans. This is how the committee process works. I would be happy to adjourn briefly if I could get some very specific procedural advice on whether or not I can share these numbers with you and give everybody confidence that these are very specific and singular events. We have put them into two motions so there would not be any confusion, one looking at the Canada-U.S. defence and security relationship, with one trip to Washington; and one looking very specifically at lessons learned and the mission in Afghanistan, with one trip to Kabul fully funded and spelled out and, as I said, agreed to by all members of the committee. There is no internal debate inside the committee as to whether or not this is what we have agreed to do.

• (1720)

I do not know who to ask that of, but I will ask it.

Hon. Wilfred P. Moore: Both Motion No. 67 and Motion No. 68 extend into two fiscal years. I do not know whether we can even do that. I would like the committee to reflect on that as well when they come back.

(On motion of Senator Wallin, debate adjourned.)

(The Senate adjourned until Wednesday, March 7, 2012, at 1:30 p.m.)

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OFFICIAL REPORT
(HANSARD)



Wednesday, March 7, 2012

The Honourable DONALD H. OLIVER
Speaker *pro tempore*

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, March 7, 2012

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the chair.

Prayers.

SENATORS' STATEMENTS

MS. ERIN MIELZYNSKI

CONGRATULATIONS
ON WORLD CUP SKI SLALOM WIN

Hon. Nancy Greene Raine: Honourable senators, I hope you saw the media coverage of the amazing victory of Canada's Erin Mielzynski in the World Cup Slalom on the weekend in Ofterschwang, Germany. Erin is a 23-year-old racer from Guelph, Ontario, and a member of the Georgian Peaks Ski Club. She became the first Canadian woman to win a World Cup slalom in over 41 years. The last to win was Betsy Clifford of Old Chelsea, Quebec, in 1971.

It is difficult to explain the effect these types of victories have on me. I know how hard it is to win a World Cup slalom race. You need two perfect runs on difficult courses, and you need to be fired up and ready to charge while staying calm under the pressure, especially for the second run.

Watching Erin's performance and especially seeing her excitement and joy, I was enormously proud as I saw an athlete with a true passion for excellence. Here is a person not only with talent but with a work ethic and the will to win. After years and years of training and dedication, she has finally reached the top. On Sunday, she clearly had the race of her life, and now the most elusive ingredient, confidence, will work in her favour, and it will also inspire her teammates.

The Canadian slalom team is a team, and each and every one of them is poised for success. On Sunday, Marie-Michèle Gagnon was fifth, and Anna Goodman had the second-fastest second run. I know, too, the role that Erin's coaches and support staff play, not to mention the thousands of volunteers around the country who organize the sport and stage the competitions.

I will also tell honourable senators that, currently in the NCAA — the university circuit in the U.S. — another Canadian, from my hometown, is in the lead in the slalom. She still has her sights firmly set on the Olympics, as well.

It was great to see the coverage in the media and to see the happiness in Erin's wonderful smile. I am sure even people who know nothing about ski racing could understand what had happened.

Honourable senators, as our teams prepare for the Olympics and Paralympics in London next summer, we can look forward to more outstanding results. Erin Mielzynski's breakthrough victory should inspire other Canadian athletes in their quests to achieve their goals.

Please join me in congratulating Erin on her enormous accomplishment in Germany. May she continue to succeed in the years ahead, and may she inspire other Canadian athletes.

INTERNATIONAL WOMEN'S DAY

MS. ANN TERRY MACLELLAN—
FIRST LADY OF CAPE BRETON

Hon. Jane Cordy: Honourable senators,

She lived well, laughed often and loved much,
She gained the respect of intelligent men
and the love of children,
She has filled her niche and accomplished her task,
And leaves the world better than she found it,
She never lacked the appreciation of earth's beauty,
Or failed to express it,
She looked for the best in others and gave the best she had.

Honourable senators, these words by poet Robert Louis Stevenson were delivered as part of the homily during the funeral in 1985 for Cape Breton's First Lady, Terry MacLellan, better known as Ann Terry.

Ann Terry was born to Bridget "Bea" MacKinnon and Charles MacLellan. She was raised in Beaver Cove, Cape Breton. Beneath the glamour and sophistication she would later radiate, she remained a simple Scottish girl who was intensely proud of her roots and Celtic family traditions.

From her parents, Ann Terry acquired many traits that would shape her professional life. Her father was a man of words and loved to tell stories. He appreciated a well-turned phrase, use of metaphor and simile, and use of the odd Gaelic phrase. Mr. MacLellan had a warm, friendly personality and is remembered as a truly nice gentleman.

While learning from her father how to tell a story, Ann Terry's mother began, at a young age, to mould her to be a "lady." She was a renowned local vocalist who was very much at home on the stage; it seemed destined that Ann Terry would follow that path, as well. At the age of three, she had already acquired an extraordinary vocabulary, one greater than a child twice her age. Her mother started Ann Terry in speech studies with Mrs. Olive MacDonald, who worked diligently devoting much time and energy to her star pupil.

While at Holy Angels High School, Ann Terry enrolled in Mrs. MacDonald's course in Educational Dramatics. This was her introduction to Shakespeare and as a stage performer. Her first appearance was as Romeo in *Romeo and Juliet*. Being tall and in an all girls school, she was often cast in a male role.

Ann Terry took these studies and the power of her voice very seriously. She was rewarded when she took the Outstanding Individual Award at the Cape Breton Festival of Speech and Drama, the first time this prize was given at the festival.

After high school, Ann Terry entered St. Francis Xavier University, taking a Bachelor of Arts. While there, she was very active in the student radio presentations with CJFX. This provided her the experience of feeling an audience through the airwaves.

After her graduation, she began to work with CBC Halifax and it is here that “Ann Terry” was born; the CBC official thought that her name was too long to use on the air and suggested that she go by Ann Terry instead. After a short while, she left CBC Halifax and returned to Cape Breton. She took over at CJB Radio in Sydney and finally had her own radio show.

Although she possessed much natural talent, she worked intensely off the air at perfecting her on-air personality. The subjects of Ann Terry’s shows varied from New York and Broadway to a Sunday drive with her mother. She was able to carry audiences who lived working lives to other exciting words with her meticulous descriptions.

She is often praised for her ability to find beauty in the obvious. She saw all that was positive in Cape Breton’s land and its people. She had a genuine interest in those she interviewed and always had something positive and complimentary to say about everyone.

Honourable senators, I thank Ann Terry for the deep sense of pride she gave to us Cape Bretoners. As tomorrow is International Women’s Day, I hope that honourable senators will celebrate Ann Terry’s contribution to Cape Breton and recognize her as a positive person in the media, certainly for young women. They say a picture says a thousand words, but to be able to use your words to paint the picture is truly something special.

Honourable senators, I am delighted to include Ann Terry in the list of Cape Breton women who have made a difference in their community. I look forward to sharing more stories with you about strong, influential women from Cape Breton.

• (1340)

BRITISH COLUMBIA

SENATE ELECTION LEGISLATION

Hon. Gerry St. Germain: Honourable senators, as some of you may already be aware, yesterday afternoon in the B.C. legislature the Christy Clark government reintroduced the proposed Senate election act. This legislation paves the way for British Columbians to join their Albertan neighbours in electing the people they wish to represent their interests in the Senate of Canada.

Spelled out in this provincial bill are the details that provide for the recommendation of the senatorial candidate who garners the margin of victory in each Senate electoral district to the Queen’s

Privy Council for Canada for appointment to this great chamber, with these great people. To this I say, hear, hear!

Honourable senators, in the past I have shared with many of you my thoughts on electing senators and Senate reform in general. To my dismay, and disbelief, you do not all agree with me. This is unbelievable.

I am on record stating that I would resign my seat to run for election should my home province hold such a vote. I am still prepared to do that.

Given that I retire from this place in eight months — do not cry. Senator Mitchell, no tears. In eight short months, I look forward to the possibility of the next senator to represent British Columbia being elected by the people of British Columbia. This is democracy at its finest, Senator Munson.

I want to offer my congratulations to Premier Christy Clark and to MLA John Les for reintroducing this legislation. It is a step in the right direction and seeks to resolve this long-standing issue, which is near and dear to so many of us in Western Canada. Buy a hat, Senator Furey.

Honourable senators, I am pleased to support the Government of B.C. in their efforts to provide another opportunity for the people of my home province to exercise their democratic right. Democracy and freedom at last!

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to draw your attention to the presence in the gallery of the 527 Squadron Simons Air Cadets from Saint John, New Brunswick. They are guests of the Honourable Senator Day.

On behalf of all senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

ROYAL CANADIAN AIR CADETS

Hon. Joseph A. Day: Honourable senators, the Royal Canadian Air Cadets is a Canadian national youth program for children ages 12 to 18. Together with the Royal Canadian Sea Cadets and the Royal Canadian Army Cadets, these Royal Canadian Air Cadets form the largest youth program in our country.

The purpose of the air cadet movement is to focus on citizenship, leadership, physical fitness, general aviation and stimulating an interest in activities of the Canadian Forces. Activities include gliding, public speaking, survival skills and marksmanship. There is no commitment to join the Canadian Forces following their time in cadets.

Since the Air Cadet League of Canada was formed in 1941, close to one million young Canadians have participated in this training program. Today there are 58,000 air cadets involved in squadrons across Canada.

The 527 Squadron Simons Air Cadets are visiting with us here today. About 55 cadets and 4 adults are with them. Part of their air cadet training is citizenship, and they are here today to understand a bit more about our political system. Meeting with MPs and senators is one of their complementary training modules for citizenship.

Honourable senators, the squadron was formed in 1950 in Simons, which is part of the city of Saint John, and the group is supported by a sponsoring committee chaired by Mrs. Kim Barton. The commander officer who is here today, along with his team, is Captain Blaine Harris.

Since 1950, over 9,000 young men and women have received aviation and military training in Saint John as members of 527 Squadron. With good attendance and good performance, cadets qualify for a number of summer programs as well. Cadets are required to participate in fundraising to help defray some of their costs for special excursions such as this trip to Ottawa to visit the Senate of Canada.

Honourable senators, young men and women have many options and opportunities. Congratulations to these young men and women for choosing to improve themselves through involvement in air cadets. Congratulations as well to their leader, Captain Harris, and his team for making the program in air cadets interesting and challenging, and therefore attractive to the cadets.

Canada is better because of their efforts.

Hon. Senators: Hear, hear!

HIS EMINENCE CARDINAL THOMAS COLLINS

CONGRATULATIONS ON ELEVATION

Hon. Norman E. Doyle: Honourable senators, only 15 Canadian bishops have ever been elevated into the College of Cardinals, and only five of them have been from English Canada.

February 18, 2012, will long be remembered as historic. It will be remembered within the Catholic Church, as the day that Toronto Archbishop Thomas Collins became Cardinal Thomas Collins, Canada's sixteenth cardinal. A recent edition of the *Catholic Registrar* best described the Cardinal Collins that most of his flock have grown to know and love. It said, "He is as humble, modest and self-effacing as any of Guelph's nineteenth-century homesteading Irish farmers."

There are many within the church who undoubtedly aspire to being elevated to the College of Cardinals, but there are few who receive the call, but lest any regard the appointment as one that is casually conferred upon any who merely display an interest, allow me for a moment to take you down the path that Cardinal Collins has taken on his way to Rome. His academic achievements are many: a Master of Arts in English from the University of Western Ontario; a Bachelor of Theology from St. Peter's Seminary in London, Ontario, in 1973; a Bachelor of Arts in English from St. Jerome's College in Waterloo; ordained a priest in 1973; lecturer in England at King's College; lecturer in scripture at St. Peter's Seminary; a Doctorate in Theology from Gregorian

University in Rome; Dean of Theology and Vice-rector at St. Peter's Seminary in London, Ontario, and later Rector of the same seminary; Bishop of St. Paul, Alberta; Archbishop of Edmonton in 1999; and then installed as Archbishop of Toronto in 2007.

In 2008, Archbishop Collins was elected president of the Ontario Conference of Catholic Bishops, and a month ago was selected by Pope Benedict XVI to join the College of Cardinals. The many achievements of this remarkable man are too numerous to mention. However, when I paused recently to read something of his life's work so far, I could not help but note the comments that have played such an important part in his life. He said:

We need to be reminded to carry our faith with us in all facets of our lives; in our workplace, our school life, our family life and our public life.

Cardinals have the great responsibility of being agents of harmony and goodwill. They are continually reaching out, listening to all generations, dialoguing with the secular and the sacred. No better man could have been chosen to fill that role.

Congratulations and best wishes to Guelph's Cardinal Thomas Collins.

SPECIAL OLYMPICS

CANADA WINTER GAMES 2012

Hon. Jim Munson: Honourable senators, I had the pleasure last week to be in beautiful St. Albert, Alberta, which has a great community history of the Metis, Aboriginal and French history that sometimes we forget in that part of Alberta. It is also home, I guess, to Jean Chrétien's 100 cousins. Anyway, I digress.

I was there to speak at the opening of the Special Olympics Canada Winter Games. It was a perfect winter scene: bright, crisp and pure.

• (1350)

It was also an exciting moment to share with the 650 Special Olympics athletes who, after months of training, were ready and raring to compete.

[Translation]

I went to Alberta to celebrate the athletes' courage and talent and to wish each and every one of them tremendous success in their sport.

[English]

Competitions were in seven sports: Alpine and cross-country skiing, curling, figure skating, speed skating, floor hockey and snowshoeing.

There is nothing more joyful in my life as a senator than having the opportunity to meet extraordinary, courageous people who make a positive difference in the world like Special Olympics athletes. They truly have the same dedication and spirit as other high-performing athletes. The theme of this year's game captured this very idea: Just as bold. Here for gold.

While training, passion and commitment play an important role in any athlete's competitive ability, the encouragement of family, friends and communities is also very important. Counting all the coaches, managers and volunteers accompanying the athletes, as well as their family and friends who came to cheer them on, there were more than 2,500 people who came from all parts of the country to attend the games. All 10 provinces, as well as the Yukon and the Northwest Territories, were represented.

In my address at the opening ceremony I said, as I will say to honourable senators now, Special Olympics athletes are men and women with heart. Special Olympics athletes are men and women with soul. More than anything, Special Olympics athletes teach us all the true meaning of sport. They are as adept at competition as they are at camaraderie. They are realizing their athletic dreams and, true to what Special Olympics is all about, they are winning at life.

[Translation]

ROUTINE PROCEEDINGS

EXPORT DEVELOPMENT CANADA

2012-16 CORPORATE PLAN SUMMARY—
REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, Export Development Canada's 2012-16 Corporate Plan Summary, pursuant to the Financial Administration Act.

[English]

CANADIAN NATO PARLIAMENTARY ASSOCIATION

MEETING OF THE STANDING COMMITTEE
AND SECRETARIES OF DELEGATION,
APRIL 1-2, 2011—REPORT TABLED

Hon. Jane Cordy: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Meeting of the Standing Committee and Secretaries of Delegation, held in Ponta Delgada, The Azores, Portugal, from April 1 to 2, 2011.

[Translation]

VISIT OF THE SCIENCE AND TECHNOLOGY
COMMITTEE, MAY 9-12, 2011—REPORT TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Canadian NATO

Parliamentary Association respecting its participation at the visit of the Science and Technology Committee, held from May 9 to 12, 2011, in Berlin and Munich, Germany.

[English]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

ANNUAL MEETING OF THE SOUTHERN LEGISLATIVE
CONFERENCE, JULY 16-20, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Sixty-fifth Annual Meeting of the Southern Legislative Conference, held in Memphis, Tennessee, United States of America, from July 16 to 20, 2011.

ANNUAL MEETING OF THE COUNCIL
OF STATE GOVERNMENTS-WEST,
JULY 30-AUGUST 2, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Council of State Governments-WEST Sixth-fourth Annual Meeting, held in Honolulu, Hawaii, United States of America, from July 30 to August 2, 2011.

2011 LEGISLATIVE SUMMIT OF THE NATIONAL
CONFERENCE OF STATE LEGISLATURES,
AUGUST 8-11, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the 2011 Legislative Summit of the National Conference of State Legislatures, held in San Antonio, Texas, United States of America, from August 8 to 11, 2011.

CANADIAN/AMERICAN BORDER TRADE ALLIANCE
CONFERENCE, OCTOBER 2-4, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Canadian/American Border Trade Alliance Conference, held in Washington, D.C., United States of America, from October 2 to 4, 2011.

NATIONAL CONFERENCE OF THE COUNCIL
OF STATE GOVERNMENTS,
OCTOBER 19-23, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the National Conference of the Council of State Governments, held in Bellevue, Washington, United States of America, from October 19 to 23, 2011.

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY LOBSTER FISHERY IN ATLANTIC CANADA AND QUEBEC

Hon. Fabian Manning: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on the lobster fishery in Atlantic Canada and Quebec;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the Second Session of the Fortieth Parliament be referred to the committee; and

That the committee report from time to time to the Senate but no later than March 31, 2013, and that the committee retain all powers necessary to publicize its findings until June 30, 2013.

QUESTION PERIOD

HUMAN RESOURCES AND SKILLS DEVELOPMENT

CANADA SUMMER JOB CENTRES

Hon. Elizabeth Hubley: Honourable senators, my question is for the Leader of the Government in the Senate. Canada's youth unemployment rate is currently hovering at about 14.5 per cent, which is almost double the average Canadian unemployment rate. Combine this with the high cost of post-secondary education and it is no wonder Canadian students are deeply in debt and finding it difficult to make ends meet.

For the past 40 years, students from across the country have relied on summer student job centres, run by the Department of Human Resources, to help them find a summer job. These job centres also were a source of employment themselves as university students were hired to staff them.

To the shock of many students, the government has announced that it is shutting down the summer job centres after four decades of operation. Why is the government eliminating such an

important resource for students at a time when they are facing high unemployment and increasing debt loads?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. It would come as no surprise to her, especially in our age group, that students are very technologically savvy. More and more students are accessing their services online. We are expanding the website at www.youth.gc.ca with new tools and resources to help youth find employment. The number of students visiting the seasonal Service Canada Centres for Youth has decreased significantly over the last few years. By enhancing the online features, there is no longer a need for these seasonal centres. By their own actions, the youth have proven this. Young Canadians will still be able to access in person assistance with resumé writing and job searches through existing Service Canada locations.

Senator Hubley: Honourable senators, I took a look at the Job Bank website for students today. It is finally back up and running after a two-week hiatus. After searching for a job, any job, for a student on Prince Edward Island, my search returned zero jobs. There are no jobs on the Job Bank website; not for students on Prince Edward Island.

Obviously, the Job Bank is not serving the needs of students in Prince Edward Island. What measures are being undertaken by the government to make the Job Bank relevant to students who depend on the local summer student job centres to find summer jobs to support themselves through university?

Senator LeBreton: I am pleased that the Job Bank site, which had experienced difficulty, is back up and running.

With regard to youth employment, we are making considerable investments to help youth get jobs and the work experience they need. We permanently increased Canada Summer Jobs by \$10 million and 3,500 additional jobs per year for a total of 40,000 jobs are now available for students each summer. Career Focus helps employers provide recent graduates with internships. It helped 2,000 graduates in 2010-11. Pathways to Education has a record of success in helping vulnerable youth to complete post-secondary education. It will help 10,000 students. Budget 2011 provided \$20 million for the Canadian Youth Business Foundation. Many programs are available to students with regard to the honourable senator's request.

• (1400)

As far as Prince Edward Island is concerned, the job website is recently back up and running. I will make inquiries as to whether the data on the site is complete or there is still some work to do on it.

FOREIGN AFFAIRS

THIRD OPTIONAL PROTOCOL ON CONVENTION OF THE RIGHTS OF THE CHILD

Hon. Mobina S. B. Jaffer: Honourable senators, my question is for the Leader of the Government in the Senate. On February 22, a ceremony to sign the Third Optional Protocol to the UN Convention on the Rights of the Child took place in Geneva. The third optional protocol introduces a complaints procedure that will allow children and their representatives to bring rights

violations directly to the UN Committee on the Rights of the Child when they have exhausted all domestic remedies, just as adults can do for other core human rights treaties. Twenty states demonstrated their commitment to children's rights by signing the protocol at the ceremony, including Austria, Belgium, Brazil, Finland and Germany.

For a very long time, Canada has been a leader in the advancement and protection of children's rights. The Senate Human Rights Committee held a very long study on children's rights, which we have been very proud of.

My question to the leader is: Why was the Canadian government not among the first countries to sign the new protocol?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. We have a long and proud record not only as a country but as a government with regard to the rights of the child and women's rights. Canada has been a full participant in many UN programs and has participated fully in many programs in Africa on maternal and child health.

I will take the honourable senator's question as notice as I am not familiar with the circumstances she has cited.

Senator Jaffer: I appreciate that that the leader will find out why Canada has not signed the new protocol.

Are there plans for Canada to sign this protocol? If so, are there plans to begin consultations with the provinces and territories to look at what remedies we have and do not have for all the rights of children in Canada? When will Canada ratify this protocol? Are there plans to introduce a children's commissioner in Canada?

Senator LeBreton: I have already responded to a question on the Senate recommendation for a children's commissioner, but I will take the rest of the honourable senator's question as notice.

SCIENCE AND TECHNOLOGY

RESEARCH

Hon. Terry M. Mercer: Honourable senators, on February 29, the Deputy Leader of the Opposition, Senator Tardif, asked the Leader of the Government in the Senate about an open letter from science journalists belonging to six Canadian professional organizations that accused the government of muzzling their own experts. The honourable leader responded:

... ministers in this government are the primary spokespersons for their departments, as was the case in the previous government.

Ministers are the primary spokespersons, but they are not scientific experts. When journalists want clarification on some item, they want to talk to the experts, but they cannot do that.

The question still remains: If a journalist wants to ask the actual expert about their findings, why can they not do so?

Hon. Marjory LeBreton (Leader of the Government): I was glad to hear that the honourable senator put on the record the accuracy of my comment. As is the case, ministers are the primary spokespersons for their departments. I know that the same group keeps making the same accusations.

The fact of the matter is that our scientists have participated in hundreds and hundreds of conferences and have given hundreds and hundreds of interviews with regard to their work. Last year alone, scientists from Environment Canada attended more than 300 conferences and contributed directly to more than 600 articles. I hardly think that the honourable senator can put that in the category of them not being free to speak for themselves, because they certainly are free to do so.

Senator Mercer: Stephen Strauss, Vice President of the Canadian Science Writers Association, who were part of the letter, appeared on *Canada AM* yesterday. Mr. Strauss said:

I had a conversation with a government information officer, one who was nearly in tears describing how her job had changed from one in which her job was to facilitate communication between journalists and scientists to one in which her job was really to prevent the journalists from talking to the scientists. She felt like she could not do her job anymore.

That sounds awfully like the government has instructed its media relations people in the departments to prevent scientific experts from talking to the media like they used to do, contrary to the leader's assertions about the many interviews that government scientists are giving. Why would science journalists still be saying that the government is muzzling the scientists if the government says they are not doing that?

Senator LeBreton: I have no idea why they would be saying that. Our scientists have provided hundreds of interviews each year with regard to their work. As well, last year scientists from Environment Canada attended and participated fully in more than 300 conferences and have contributed to more than 600 articles.

I have no idea why anybody would be in tears, as the honourable senator says. I hope that was someone describing the scientist and not the scientist saying she was in tears. I find that quite demeaning to women, frankly. In any event, scientists are free to talk to the media; and they have done so hundreds of times over the past few years.

Senator Mercer: Scientists have given some interviews, but it is a highly supervised process with pre-clearance of a journalist's questions. *Nature*, according to its website, is the world's most highly cited interdisciplinary science journal according to Journal Citation Report, 2010 Edition. Last week *Nature* said:

Canadian journalists have documented several instances in which prominent researchers have been prevented from discussing published, peer-reviewed literature. Policy directives and e-mails obtained from the government through freedom of information reveal a confused and Byzantine approach to the press, prioritizing message control and showing little understanding of the importance of the free flow of scientific knowledge.

It goes on to say:

... *Nature's* news reporters, who have an obvious interest in access to scientific information and expert opinion, have experienced directly the cumbersome approval process that stalls or prevents meaningful contact with Canada's publicly funded scientists.

How many more instances of this will it take for this government to change its policies and give the scientists the freedom to speak to journalists?

Senator LeBreton: I guess the honourable senator and I are on a different planet, obviously.

The fact that scientists have contributed more than 600 articles to scientific journals hardly constitutes a situation whereby people can say that they are muzzled. They contributed to these articles and they appear in scientific journals. I cannot respond to something that I really do feel is blatantly unfair and not correct.

As is the case in all governments, in matters specifically related to government policy, ministers are ultimately responsible for answering for their respective departments. That in no way inhibits scientists from giving interviews, participating in conferences and writing articles for scientific magazines.

• (1410)

HEALTH

MEDICAL RECOMMENDATIONS

Hon. Jim Munson: Honourable senators, my question is for the Leader of the Government in the Senate.

On Monday, February 27, 2012, the Minister of Health sent a letter to all parliamentarians explaining the government's position on funding clinical trials for the treatment of chronic cerebrospinal venous insufficiency. In that letter, the minister justified the government's position by stating that their approach was endorsed by the Canadian Medical Association and other Canadian organizations, as well as by other international medical bodies and scientific panels. Minister Aglukkaq also said in her statement that we cannot and must not turn a blind eye to the opinions of international experts. She said:

However difficult the decision is, as parliamentarians, we have an ethical obligation to put our patients' safety first. Our evidence-based health care system requires that procedures performed be sound and shown to work. We have built this system on exacting, internationally recognized ethical and scientific standards. Circumventing them through legislation is undermining the independence of our scientific process and the safety of our fellow Canadians.

I believe that is a quote of convenience.

There is a double standard on this. On another issue, this government ignores the science offered by the same Canadian Medical Association and respected international organizations.

As the leader knows, the CMA passed a resolution demanding "a ban on the sale and export of chrysotile asbestos." On the international front, the World Health Organization estimates that more than 107,000 people die each year from asbestos related illnesses. We have seen some of those horrible stories in this country, in a recent CBC documentary.

The position of the CMA and the WHO is based on the ethical and scientific standards the Minister of Health so proudly refers to in her letter. Yet this government continues to blindly support the asbestoses industry.

Is that not undermining the independence of the scientific process? Why the double standard?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, with regard to multiple sclerosis, we all recognize the difficulties and the heartbreak faced by thousands of patients and their families across the country.

This is an issue that Minister Aglukkaq has discussed with the provinces and territorial health ministers, the last time being late last year, in December, I believe.

On November 25, Minister Aglukkaq announced that the Canadian Institutes of Health Research will be accepting research proposals for phase 1-phase 2 clinical trials. We are also supporting the development of an ongoing, national MS monitoring system that will provide patients and health care providers with a better understanding of the disease and its treatments.

We are working with the provinces and territories, as I mentioned, to ensure that all Canadians living with this disease receive appropriate care. Our priority, in this regard, is the health and safety of Canadians. Who better than the Canadian Institutes of Health Research to be spearheading this? Obviously, those of us who have had the privilege of listening to some of the people from CIHI are very cognizant of the hard work they are doing and the due diligence that they are going through with regard to multiple sclerosis. With their good work, it is hoped that a cure or a treatment can be found soon to alleviate this terrible condition.

With regard to asbestos — and there is scientific research to back this up — if the product is properly packaged, handled and shipped, it can be used perfectly safely. I know the various stories and have seen some of them, but the asbestos industry in Canada is involved in shipping a product that is safe for use, provided that people follow the proper instructions.

Senator Munson: The leader did not quite answer the question. The question had to do with the double standard. The government will accept recommendations by respected organizations and will voice them. The health minister will talk about them. She will talk, in tones that are positive, about the CMA and the World Health Organization. The government accepts them and puts those opinions out there, but not when it comes to dealing with another issue that is quite serious. I disagree with the safety of chrysotile asbestos. This government has no problem accepting the views of the CMA and the WHO when it suits their purposes, but, when it does not, it is as if these groups disappear.

At times, the government values these expert opinions and at other times the government dismisses them. How can the Leader of the Government in the Senate justify this duplicity?

Senator LeBreton: Honourable senators, organizations have different views on various subjects. Many of us know the people involved in the Canadian Medical Association. The CMA is an organization that provides background research studies. Obviously, with regard to multiple sclerosis, they have been very helpful. We do not discount, for a moment, their views and concerns about chrysotile asbestos, but this product has been safely shipped and properly controlled by the government for the past 30 years. Governments of many stripes have been in power when this product has been shipped. The product is safe, provided that it is properly handled and controlled. Of course, this is mostly a product that is exported. Scientific reviews confirm that chrysotile fibres can be used safely, under controlled circumstances. That is a scientific view. We all know and seek examples, in Canada, of asbestos being removed from buildings, and, of course, asbestos has not been used in Canada since the early- to mid-1980s.

We do have scientific advice on this product. We appreciate the views of the Canadian Medical Association. We are not ignoring their views. We are not picking and choosing, as the honourable senator suggests, but many organizations freely give advice to governments. Governments obviously take into account what they have to say. We are well aware of the concerns about asbestos, but there is scientific evidence that this product is safe, if properly handled and shipped.

Senator Munson: Honourable senators, this government is exporting death.

Some Hon. Senators: Oh, oh.

Senator Munson: They can say all they want about shipping, handling charges, whatever it is, all wrapped up nice and pretty, but this is an export of a material that is killing people. Not only do the documentaries show that but so do those who have seen what has happened in India. Once it gets to different countries around the world, there is very little protection. We see men and women pulling this stuff out and trying to put it back together again. What is the by-product? The by-product is that people are dying.

We can say all we want about asbestos not being used or handled here, but I would like to say that to some of the families who have handled asbestos in the past.

This is a question with a statement. I just cannot buy the honourable leader's arguments at all.

• (1420)

Senator LeBreton: Honourable senators, Senator Munson needs to cut the dramatics.

Some Hon. Senators: Oh, oh.

Senator LeBreton: He said that our government is exporting death. If that is the case, then his government exported death for 24 years.

I realize that there is some attention paid to this product. I have acknowledged that if the product is packaged and handled safely, it is deemed by scientists to be safe. I would hope that the people who are buying this product from Canada are in fact following the instructions for its proper use.

The honourable senator cited some examples in India. It is the responsibility of the governments in the countries where the authorities are purchasing this product from Canada to ensure that, when the product arrives on their shores, their people are properly trained to handle it and that they follow the proper instructions. That would certainly be the hope of the Government of Canada.

Hon. Terry M. Mercer: During the break week, Senator Nancy Ruth and I had the privilege of travelling to India with the Commonwealth Parliamentary Association. As we travelled around India we saw deteriorating buildings in some of the slums in Old Delhi and Mumbai. They are pitiful sights for other reasons, but with regard to asbestos, mixed in with the cement of some of these deteriorating buildings is asbestos that was used in their construction.

There is no such thing as safe handling of this product. It is a deadly product. We need to stop this and we need to stop it now. The Leader of the Government says that we have been selling it for years. If we were wrong under previous governments, we are still wrong today.

When will the government own up to the fact that this product is killing people worldwide? Stamped on that product is "Made in Canada."

Senator LeBreton: The debate is on the safe shipment and handling of the product. It is like any product. Without much effort I could think of hundreds of products that, if not properly handled, are not safe.

I recognize the honourable senator's concern. I was not aware that Senator Mercer and Senator Nancy Ruth had been on a trip to India. Good for them.

I will inform the Minister of Health that there is an increasing amount of alarm being expressed about the use of this product.

Again, hundreds of products are imported into Canada and exported from Canada that could be deemed to be unsafe if they are not properly handled, and I think that asbestos probably falls in the same category.

I will express the concerns of Senator Mercer.

NUTRITION STANDARDS

Hon. Jane Cordy: Honourable senators, my question is not about CCSVI or MS because, as my bill is at day 15 today, when someone on that side speaks, I may have some questions about it.

My question is on the double standard of paying attention to and quoting the Canadian Medical Association and reports done by Health Canada sometimes and ignoring them at other times. There seems to be a pattern developing. Also, I find it incredible to hear the leader say that asbestos is a safe product.

When Minister Clement was the Minister of Health, he asked his department to do a study on trans fats, and they did. They reported that trans fats in products should be reduced. The government said that they would give business two years to comply and, if they did not comply within that time, then they would bring forth legislation. Big business did not comply within two years, but big business did not like the idea of legislation, so Minister Aglukkaq dropped it.

Health Canada did a study on sodium and reported that sodium was bad for us and should be reduced. Big business did not like that report, so the minister dropped it.

Health Canada did a study on energy drinks that are high in caffeine and not good for young children or adults, for that matter, with the amount of caffeine in them. The department suggested action. Big business did not like it, so the minister dropped it. There seems to be a pattern here.

I know that Senator Eaton said we should not legislate this. That is the prerogative of the government, but if it is not going to legislate, then why bother spending the money, the time and the energy of the department to bring forward these reports? Why even bother with a report? If its philosophy is that government should not intervene, then it has every right to do that, but do not spend taxpayers' dollars on studies and reports and then throw them out the window because big business does not like them.

Why is there a double standard? Why is the minister asking for studies and not paying attention to them because big business does not like them?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I will take issue with that. I am not completely familiar with the origins of some of these studies, some of which have been around for quite some time.

With regard to sodium and trans fats, we have been working with various levels of government and the industry and, as a result, foods are more properly labelled. That is certainly the case with sodium. We did take action on the trans fat issue with the Trans Fat Monitoring Program with the result that 75 per cent of pre-packaged foods now meet the recommended targets.

I believe that these studies have had positive results. Food is now properly labelled. Due to my husband's medical condition, sodium content and trans fats happen to be two areas that I watch carefully. I have noticed a marked improvement in the last few years in identifying the content of food.

Action was taken and foods are more properly labelled.

However, we cannot follow people around in stores slapping them on the wrist when they choose a product that some study group thinks is not safe.

[Translation]

POINT OF ORDER

SPEAKER'S RULING

The Hon. the Speaker pro tempore: Honourable senators, I will now deal with the point of order raised by the Honourable Senator Mitchell after Question Period yesterday. The point of order dealt with an article published in this week's edition of *The Hill Times*, containing certain comments by the Chair of the Standing Senate Committee on National Security and Defence.

[English]

A point of order is typically a complaint or question raised by a senator who believes that the rules, practices or procedures of the Senate have been incorrectly applied or overlooked during the proceedings, either in the chamber or in committee.

I would refer honourable senators to page 632 of the Second Edition of the *House of Commons Procedure and Practice*, as well as citation 317 of the 6th Edition of Beauchesne.

While Senator Mitchell may take issue with the comments, they do not involve a departure from our rules or practices. As such, there is no point of order.

• (1430)

ORDERS OF THE DAY

SAFE DRINKING WATER FOR FIRST NATIONS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Dennis Glen Patterson moved second reading of Bill S-8, An Act respecting the safety of drinking water on First Nation lands.

He said: Honourable senators, I rise today to speak about and to voice my support for Bill S-8, the safe drinking water for First Nations act.

Bill S-8 proposes to safeguard health and safety of drinking water for women, men and children on First Nation lands and in the process strengthens Canada's relationship with First Nations. It will also continue a collaborative process that has been under way for several years.

Honourable senators, the issue of drinking water on First Nation lands is not new to this chamber. In 2007, the Standing Senate Committee on Aboriginal Peoples released a landmark report on the state of drinking water on First Nation lands. This report recommended a comprehensive consultation process with First Nation communities and organizations regarding legislative options. In the previous Parliament, our Standing Senate

Committee on Aboriginal Peoples studied the former Bill S-8, enabling legislation that would have provided a legal framework for creating an enforceable federal regulatory regime on First Nation lands.

Of course, we all know and appreciate that safe, clean and reliable water is essential to human health. Effective water use and treatment of waste water is also important for First Nations' participation in the Canadian economy. Provinces and territories already have regulations in place to ensure that Canadians have access to safe drinking water. These regulations define standards for water quality and assign responsibility for key areas such as testing and treatment. However, such provincial regulations do not apply on First Nation lands. The lack of federal enforceable standards undermines efforts to ensure that women, men and children on First Nation lands have access to safe, clean and reliable drinking water.

Several authoritative groups have issued reports on the state of drinking water on First Nations lands, including the Standing Senate Committee on Aboriginal Peoples, whose report I noted previously; the Expert Panel on Safe Drinking Water for First Nations; the Auditor General of Canada; and, more recently, the House of Commons Standing Committee on Public Accounts.

While each of those reports brought forward some specific observations on this issue, many of them concluded that a comprehensive federal regulatory regime for drinking water on First Nation lands is urgently needed to protect public health. Bill S-8 will lead to the establishment of enforceable standards related to the quality of drinking water available to First Nations women, men and children.

I would like to draw your attention, honourable senators, to the National Assessment of Water and Wastewater Systems in First Nation Communities, the results of which were released by the Honourable Minister of Aboriginal Affairs and Northern Development last July. No government has ever undertaken a national assessment like this: Over 4,000 water, waste water, wells and septic tanks were surveyed and rated for overall system management risks. The results of this assessment have provided a thorough picture of the current issues related to drinking water on First Nation lands.

The government's response to the national assessment focuses on three key areas: improving technologies and partnerships to ensure the best use of investments in infrastructure; enhancing capacity building and training for First Nation operators; and, finally, developing enforceable federal regulations. Bill S-8 is an imperative step in ensuring that enforceable standards are in place.

To create regulations on drinking water, Bill S-8 commits to a collaborative process that will lead to an effective regime and continues to build and strengthen Canada's relationship with First Nations. This approach is deliberate. Rather than simply legislating standards, the proposed legislation provides in the preamble that the government is committed to working with First Nations organizations to design and develop regulations that meet the particular circumstances of each region.

The government fully recognizes the fact that regulations alone cannot produce safe drinking water. Regulations are just one factor that will support access to safe, clean and reliable drinking water in many First Nations communities. There are other issues, such as inadequate infrastructure and shortages of trained personnel that must also be addressed.

The government has made significant progress and achieved tangible results in the area of infrastructure and capacity since 2006, when the Plan of Action for Drinking Water in First Nations Communities was launched. In fact, between 2006 and 2013, the government will have invested approximately \$2.5 billion in water and waste water infrastructure and related public health activities to support First Nation communities in managing their water and waste water systems. In recent years the government has made targeted investments in water and waste water projects for First Nations communities through Canada's Economic Action Plan, coupled with investments in the First Nations Water and Wastewater Action Plan that introduced new measures to improved access to safe drinking water in First Nations communities.

The evidence is clear. Regulatory standards need to be put in place to ensure government and First Nations investments and efforts are based on a strong foundation and further progress for First Nations communities is supported.

Following passage of Bill S-8, hopefully, officials will collaborate with First Nations to address gaps in infrastructure and expertise, establish plans to close these gaps and commit to clear goals and deadlines. A phased approach to implementation will be undertaken, rolling out regulations to align with infrastructure investments and support compliance with them.

This would build on the government's ongoing collaboration with First Nations on drinking water, which, as I said, has been under way since 2006. Bill S-8 represents the next crucial step in this cooperative effort. Along with the Assembly of First Nations, several other groups have played an active role in developing the legislation now before us today. The Assembly of First Nations, the Atlantic Policy Congress, and the Assembly of Treaty Chiefs of Alberta have provided valuable input into Bill S-8. It is also fair to say that senators have contributed to significantly as well.

Honourable senators, the truth is that Bill S-8 has been informed by the views expressed by hundreds of First Nations individuals and organizations over the last six years. In 2006, the Expert Panel on Safe Drinking Water for First Nations held a series of public hearings with First Nations across Canada, hearing from over 110 presenters and receiving more than two dozen written submissions on regulatory options to promote safe drinking water in First Nations communities.

In 2009, the Government of Canada organized a series of engagement sessions on a framework for proposed legislation. Every First Nations community in Canada was invited to send political and technical representatives. This engagement led to former Bill S-11, which died on the Order Paper as a result of the dissolution of the last parliament and which formed the basis of the bill we are debating today. As I mentioned before, Bill S-11, which was introduced in this chamber in May 2010, was the

subject of an extensive review by the Standing Senate Committee on Aboriginal Peoples. The committee heard from numerous witnesses over a span of five weeks. Rather than simply reintroduce the same bill, this government continued to engage First Nations in an ongoing dialogue and incorporated several improvements — improvements that respond directly to concerns expressed by various First Nation groups.

One of these concerns involves the potential impact on Aboriginal and treaty rights. In response, the Government of Canada has added a non-derogation clause to Bill S-8.

Some Hon. Senators: Hear, hear!

Senator Patterson: Another concern involved the initial scope of the regulations that could have developed under Bill S-11. To allay this concern, a clause was modified to provide clear boundaries on incorporation by reference of provincial and territorial regulations.

• (1440)

The proposed legislation and the regulations developed hereunder will be federal and the amended bill clarifies this point. The bill would, however, allow the government to establish on a region-by-region basis federal regulations that reflect provincial or territorial regulatory regimes but are adapted to the needs of First Nations communities.

Incorporation by reference remains a powerful regulatory tool and is the government's preference for developing regulations that are comparable to the standards enjoyed by Canadians off reserves. Such an approach would, for instance, support the establishment of comparable standards for adjacent and on- and off-reserve communities. With comparable standards, First Nations and neighbouring jurisdictions could collaborate more readily on water and waste water management. They could exchange best practices on inspections, training and enforcement, and negotiate agreements to share infrastructure or testing if they so wished.

I know many First Nations and some parliamentarians have raised the issue that First Nations will be subject to regulations before they have the necessary infrastructure and capacity to comply. Honourable senators, let me quote the minister of Aboriginal Affairs and Northern Development in his appearance during the committee consideration of former Bill S-11:

... multi-year investment plans will support effective roll-out of regulations. This approach is flexible, accommodating, responsible and appropriate. I have no intention of making First Nations communities subject to laws that they cannot abide by, and I will not allow that to happen.

I have discussed this with the honourable minister, and let me put on the record that this remains the government's commitment to moving forward.

Honourable senators, the Government of Canada continues to work in close collaboration with First Nations groups on a number of important issues such as land claims, on-reserve

education, child and family services, and health care. Bill S-8 would inspire further progress.

Canada and First Nations are determined to build a healthier, more respectful relationship. The Crown-First Nations Gathering held earlier this year in Ottawa is just the latest evidence of this determination. As the Prime Minister stated at the gathering, we must secure water system accountability through legislated standards.

The bill now before us would see First Nations working closely with federal officials to establish regulations and to protect the quality of drinking water on their lands. It would, for the first time in history, ensure that First Nations women, men and children have access to the same level of regulatory drinking water protections that provincial and territorial laws afford other Canadians across this country. Bill S-8 responds to calls from many authoritative groups for a legislative solution to a problem that continues to undermine public health and safety.

Honourable senators, Bill S-8 is a crucial component of a larger plan to protect public health and, in the process, nurture the improving relationship between Canada and First Nations. The issue of safe drinking water in First Nations communities has been the subject of the Senate's attention for a great number of years; and given our earlier debates on a similar law, I urge my colleagues to move quickly on this issue and join me in endorsing Bill S-8.

(On motion of Senator Dyck, debate adjourned.)

[Translation]

NATIONAL STRATEGY FOR CHRONIC CEREBROSPINAL VENOUS INSUFFICIENCY (CCSVI) BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Peterson, for the second reading of Bill S-204, An Act to establish a national strategy for chronic cerebrospinal venous insufficiency (CCSVI).

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, this is an important bill. We discussed it earlier during Question Period. I have not finished preparing my notes nor have I verified which members of our caucus want to speak about this bill. I would therefore ask, since this is the fifteenth time that this bill has appeared on the Order Paper, to adjourn the debate in my name for the remainder of my time.

(On motion of Senator Carignan, debate adjourned.)

[Senator Patterson]

INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA'S DOMESTIC AFFAIRS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada's domestic affairs and their abuse of Canada's existing Revenue Canada Charitable status.

Hon. Larry W. Smith: Honourable senators, today, I have the great honour of participating in the debate on the notice of inquiry brought forward by my friend and colleague, Senator Eaton.

I would first like to congratulate Senator Eaton for bringing to the attention of all the honourable senators the interference of foreign foundations in Canada's domestic affairs and their abuse of the Canada Revenue Agency's rules and regulations governing charitable organizations.

[English]

This debate is as necessary as it is crucial. It also strikes to the very core of who and what we are as a nation and as a people. It is about more than pipelines. It is about more than the environment.

Honourable senators, this debate is about Canada's economic sovereignty. The question we face is fundamental: Do we, with natural resources that form 9.5 per cent of our economy's GDP, have the right to decide how we develop the riches our nation is blessed with, or are we willing to abdicate that right and grant it to those in other nations? It is that clear.

Sometimes we take this sector for granted. It encompasses mining and minerals and non-minerals such as potash, oil and gas, agriculture, forestry, and fishing. This abundance has played a key role in the development of Canada's economy over the decades. The key to our economic success in the future will be harnessing this sector to the benefit our future generations will have.

Now crystallized by debates over Keystone XL and the Northern Gateway Project, I am proud to stand with Prime Minister Harper. Like him, I want to see the 400,000 jobs the Canadian Energy Research Institute estimates will be created over the next 10 years. Like him, I want to see Canada benefit from the oil sands growth potential that the institute predicts will be up to \$140 billion for our GDP over a decade. Like him, I want to see municipal, provincial and federal social programs and projects enhanced by the \$2.6 billion in government revenues also over a decade the institute expects; and like Prime Minister Harper, I want the world to witness that projects of this magnitude can be accomplished here in Canada, a nation whose commitment to human rights, democracy and the rule of law cannot be questioned. Over and again, like Prime Minister Harper, I want to see our natural resources sector, a sector that already employs almost 800,000 Canadians, flourish, particularly in our northern regions.

Think of the employment opportunities badly needed for Aboriginal Canadians in the rugged North and across the northern areas of our provinces. I was a very young boy on the cusp of becoming a teenager when a man from the far-off prairie west by the name of Diefenbaker held office. His decency, his advocacy for the underdog, and above all else his belief in Canada and her destiny moved me deeply despite my youth. All these decades later he inspires me still. Speaking in Renfrew in 1958, Prime Minister Diefenbaker said the following:

We have the right to determine our own destiny at all times, in our own way, and without dictation in any way from any other country.

• (1450)

I believe strongly that these words of our late Prime Minister should guide us during this important debate about Canadian economic sovereignty in our own age.

Only recently, honourable senators witnessed the successful visit of Prime Minister Harper to China. Today, after the current American administration bowed before the well-funded efforts of lobbyists-turned-environmentalists over Keystone, our Prime Minister has demonstrated Diefenbaker-like firmness in himself, standing up for Canadian sovereignty. He told a Chinese audience:

Yes, we will continue to develop these [Canadian] resources in an environmentally responsible manner. But so too will we uphold our responsibility to put the interests of Canadians ahead of foreign money and influences that seek to obstruct development in Canada in favour of energy imported from other, less stable parts of the world.

Once again, I am proud to stand with the Prime Minister. Like all senators honoured to serve Canada in this chamber, I have no quarrel with those who disagree with my own approach to, or views on, a particular issue. I respect my colleagues opposite who do not share my party affiliation.

We need only look above us at the historic murals that grace this chamber to be reminded of the lengths Canadians will go to demonstrate their collective belief in freedom of speech and Canadian sovereignty. Like all Canadians, senators — present and future — stand forever in the bright shadow of the sacrifice Lord Beaverbrook's murals represent.

I ask my friends opposite, with respect, I ask those who say decisions made concerning Canadian resources are simply environmental questions this: Where goes Canada's economic sovereignty when people sit back in silence while a multi-billion dollar U.S.-based foundation directly involves itself in fundamentally Canadian political questions that strike at the heart of our sovereignty?

What is sovereign about a U.S. foundation giving \$1.5 million to David Suzuki's group to produce a brochure called "Why You Shouldn't Eat Farmed Salmon," while our B.C. fishers suffer? Statistics Canada reported a \$22.5-million decline in B.C. salmon fishing revenue in 2009.

What is sovereign in allowing an American foundation to use its money in Canada to harm our own fishery sector while, at the same time, these funds happen, just happen to benefit U.S. — read Alaskan — fishery business interests? What is sovereign about ignoring facts that demonstrate that 56 U.S.-based foundation-funded organizations are involved in swaying market share toward Alaskan salmon and away from imported — read Canadian — salmon?

Think this is just about the environment, honourable senators? Think again. This is about business. It is about promoting American business, while Canadian workers and communities suffer.

According to Alaska's Department of Fish and Game in a 2011 report, their salmon hatchery industry was worth \$168 million in 2010 and employed hundreds of Alaskans. This hatchery, the same report states, now accounts for 34 per cent of Alaska's state's salmon production. Do not believe me? Still think this is only about the environment? Why, then, is it in British Columbia, the Canadian province that is home to the greatest competition faced by the Alaskan fishery, where a U.S. foundation active around the world funds its only region-specific Seafood Choices program? It ranks U.S. and Alaskan salmon as "best choices" and B.C. salmon as "some concerns."

To borrow, in a slightly different context, a phrase used by Prime Minister Harper in an interview in New York City last fall, "It's a no-brainer."

Where is the sovereignty in the silence from Canada's usual staple of self-declared nationalists, those usually at the ready to pounce at even perceptions of U.S. encroachment in our economy? I am not anti-American; I am proud of former Prime Minister Brian Mulroney who negotiated the Free Trade Agreement, NAFTA, and the Canada-U.S. acid rain treaty with the United States. He was well acquainted with this segment of Canadian opinion. He wrote:

The anti-American lobby in Canada is not insignificant. It is located largely, but not exclusively, on the left, among left-wing political parties and unions, a wing of the Liberal Party, the CBC, *Toronto Star*, assorted media types and among some central Canadian academics. This extremist crowd is separate from the much larger group of Canadians who are quite properly concerned about American incursions into our cultural and economic sovereignty. These are the legitimate and thoughtful Canadian nationalists whom I have always respected.

I know, honourable senators, that those of us participating in this debate from this side of the chamber situate ourselves within the latter group the eighteenth Prime Minister described. We are indeed concerned with the U.S.-based incursions into our economy and political debate that Keystone and other issues have revealed.

Where is the sovereignty in the fact that so many Canadian labour leaders are not speaking up in defence of the thousands of present and future Canadian jobs now at risk? The silence from this quarter, particularly in regard to the Pacific Gateway pipeline project, is deafening.

Wake up, I say to my friends in the labour movement. Wake up! If we work together, we can find agreement and help green our economy. We are on the verge of the creation of an entirely new sector of the economy, that of recycling mining waste products. Economic opportunities will lead to partnerships that create jobs in value-added green industries from the oil sands. There are thousands of jobs for their members in the green sector of tomorrow.

I will be frank with my friends from labour. Up until now, our government's tax and research and development regime has concentrated on resource extraction. However, if we work together, we can modify policies and provide support to give green energy the hand-up it will require.

I have no quarrel with those who oppose the Pacific Gateway pipeline because of heartfelt environmental concerns. While I disagree with many of these positions, I believe strongly in the fundamental right of Canadians to debate matters of public policy freely and openly. Doing so is not only our right; it is our duty. What does concern me, however, are those groups who have increasingly crossed the line between legitimate lobbying and political advocacy, particularly in these recently environmentally charged debates.

Keystone, the Northern Gateway and the fisheries issues I have highlighted demonstrate that it is very likely that some Americans, assisted by allies in Canada, have found ways to flout — at minimum — the spirit of Canada's regulations governing activities by charities and foundations. This threatens free political discourse in our country.

As we have seen, it also directly affects Canada's economy. However, whatever one's stand on environmental concerns, this has now become first and foremost an issue of Canadian economic sovereignty. Canadians, and Canadians alone, must determine the rules under which we conduct these national debates. That right is under threat.

Honourable senators now know where I stand. I salute Senator Eaton for her timely notice of inquiry into these matters. It is long overdue. While I have concerns, honourable senators, do not think for a moment my confidence in Canada and Canadians has been diminished. Far from it. I look to the future with great pride, excitement and promise, and I do so in the spirit of a past leader of my party, a proud Nova Scotian, who in his time and age was also inspired by Canada's tomorrow. Sir Robert Borden stated:

Today, Canada is the mistress of her own destiny. She commands both the Atlantic and the Pacific. She holds the highway of the world.

Hon. Grant Mitchell: Honourable senators, I wonder if Senator Smith will take a question or two.

The Hon. the Speaker *pro tempore*: Will Senator Smith accept a question?

Senator L. Smith: Certainly.

Senator Mitchell: Honourable senators, I know Senator Smith did not specifically mention it, but what he is talking about does have grave implications for an organization called Tides Canada. I know other senators have mentioned that Tides Canada is one

of the critical examples of how a foundation, the Tides Foundation in the U.S., funds Tides Canada and Tides Canada gets involved in things they should not be involved in because, of course, the government disagrees with them.

I would just like to point out that there are a number of categories of people who work with Tides Canada. There are the recipients, and I am going to list some of them. The honourable senator will be pleased to know the recipients will be very happy to get a letter with a copy of the honourable senator's speech.

Have honourable senators heard of the fact that Tides Canada gives money to the Mount Sinai Hospital Foundation? We heard an eloquent speech yesterday about that from Senator Gerstein. It gives to the Multiple Sclerosis Society of Canada. It gives to the Vancouver Talmud Torah Association. It gives to the Stephen Leacock Foundation for Children. It gives to the University of British Columbia Sauder School of Business. That is a subversive organization. Has he heard of that and the implications of what he is saying will have on these organizations? I have a second question after that.

• (1500)

Senator L. Smith: Thank you very much for the question. In anticipation of the question, we have done a lot of reading about Tides and what they do. The issue is that a lot of the U.S. foundations, including Tides, have done a great job of giving money philanthropically.

The issue that Senator Eaton is bringing up is when foreign foundations enter into the Canadian domain, funding Canadians to do things outside of charitable activities, and get the tax benefits from it. This is what we are opposed to. We are not opposed to the issue of goodwill work done by U.S. foundations.

It is important that we stay on the issue. The issue here is do we want to control our economic sovereignty and not have people come across under a guise of being a charitable foundation and interfering in the future economics of our country. That is what I am talking about.

Senator Mitchell: Okay, so I guess what you are saying —

Senator L. Smith: If I can complete my response, I would encourage members from the opposite side — because I was shocked as I got involved with the study of this issue — to read articles that date back as far as 2010 about Tides in terms of what they are doing in our country. I would suggest that you look at the *National Post* article of November 20, 2010. I think if you read it you will get some form of a balanced opinion as to the good and bad of what these people do.

Senator Mitchell: I guess the *National Post* would be the definitive —

The Hon. the Speaker pro tempore: I am sorry to interrupt, but I must advise that the honourable senator's time has expired.

Is he prepared to ask the chamber for an additional five minutes?

Senator L. Smith: I am exhausted.

The Hon. the Speaker pro tempore: Is there further debate?

(On motion of Senator Plett, debate adjourned.)

POINT OF ORDER

SPEAKER'S RULING RESERVED

Hon. Colin Kenny: Honourable senators, I am rising today to make a clarification. Yesterday Senator Wallin said she:

... sat on the committee when it was chaired by one of our colleagues, Colin Kenny, when a final version of the report on the RCMP came out that was indeed attacking the organization. One of the suggested titles at the time, or certainly a phrase that the chair approved of, referred to the RCMP as a rent-a-wreck of a police force. That was not approved by the Conservative members on the committee.

I should point out that Senator Wallin is speaking about meetings that were entirely in camera, and that is contrary to the Senate Rules. The draft report she is referring to was never adopted by the committee — even though it had a majority of Liberals on it at the time — and the phrase “rent-a-wreck” comes from a book by Mr. Paul Palango, and never had my support.

Senator Wallin went on to say:

In fact, if memory serves me correctly, Liberal members of the Senate, that summer, after the session ended and we rose, prepared their “own report” based on information that was collected by the Senate and put a report out that they called a “Liberal report,” which made many accusations and I think some unfair commentary about our national police force.

Honourable senators, I have a copy of that report here. Nowhere in it is anybody's reputation besmirched, and Senator Wallin alleges that we have done that. I challenge her to come forward and give us examples from this report where that happened.

Thank you.

Hon. David Tkachuk: I would like to say that I was part of that committee as well. We did have hearings on the RCMP and the report was never adopted, but gee, all of a sudden a short time later, a report was produced by Liberal members that looked very familiar to the report that the committee decided not to adopt.

I think that Senator Wallin was correct in saying that the report did not reflect well on the RCMP, because the report was produced after the report was defeated in the committee. Then the Liberal members took it upon themselves to use the information that the committee had gathered and produced the report on their own. That is what we objected to at the time and continue to object to this very day.

Hon. Daniel Lang: I would like to perhaps refresh the honourable senator's memory in respect to that report as well. Some of the concerns of the members of the day at that time

within the committee were that there were recommendations and statements made in that draft report that did not reflect the evidence that had been presented to the committee. We found it, at least from our side, very difficult to go ahead with a committee report not based, at least in part, on information that had been provided to us.

I think that if the honourable senator took some time and went through the blues he would find that what he just stated earlier in his opening comments will refresh his memory, and then he will look back and say, "Yes, there was a difference of opinion."

The Hon. the Speaker *pro tempore*: Is there further debate on the point of order?

If not, the chair will take the matter under advisement.

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO STUDY STATE OF DEFENCE AND SECURITY RELATIONSHIPS WITH THE UNITED STATES

On the Order:

Resuming debate on the motion of the Honourable Senator Wallin, seconded by the Honourable Senator Martin:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the state of Canada's defence and security relationships with the United States; and

That the Committee present its final report to the Senate no later than December 31, 2013 and that the Committee retain, until March 31, 2014, all powers necessary to publicize its findings.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I would like to say a few words regarding this motion and about committee travel more generally.

While I do not intend to address my next motion, my remarks apply equally to the proposed study on Afghanistan.

There is no question that Canada's relationship with the United States is the single most important relationship we have in the world. That is true whether we are talking about our national security and defence, trade, or any other aspect of our economy.

I also have no doubt that the Standing Senate Committee on National Security and Defence will undertake a thoughtful and thorough study of this relationship and provide meaningful advice to the Senate and to the government.

Senator Wallin is to be congratulated for her work as chair of this committee. She is uniquely well suited for this work for many reasons. To just speak of her vast experience as a consul general

in New York and as a member of the special task force on Afghanistan speaks volumes about her credentials. We should therefore wholeheartedly support both of these motions.

• (1510)

Honourable senators, I just want to say a few words. Listening to the debate yesterday, I was somewhat concerned with a certain aspect of the debate as it relates to travel. My remarks now relate more to travel in general than on these specific motions.

As I have said in this chamber before and as honourable senators know, I am a member of the Treasury Board Subcommittee on the Strategic and Operating Review and have been working with my cabinet colleagues in an effort to find billions of dollars in savings across the government. Our government is serious about returning to fiscal balance and delivering on its commitment.

Canadians supported the government's efforts to stimulate the economy during the recent economic downturn, as we were urged to do. Equally, Canadians now expect us to get our fiscal house in order.

I am pleased that our Internal Economy Committee has done its part to ensure that the Senate also reduces its non-essential expenditures. Canadians expect parliamentarians to show leadership in this area. As senators, we must be mindful of expenses while undertaking our duties.

I was proud to serve as Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology under the chairmanship of our former colleague, the Honourable Michael Kirby. Many of us were on that committee. We undertook a major study on the Canadian health care system. We heard testimony from expert witnesses from around the world — Germany, Sweden, Australia, the U.K., and the United States, to name but a few. We did all of this work using video conferencing, and not once did we leave the country.

That report was highly regarded, well received, and is still held out as one of the best pieces of work the Senate has ever done. That report was tabled nearly 10 years ago. Technology has greatly improved since then, making video conferencing an even more viable option now.

Our committees can do their work and fulfill their mandates without travelling. At this time when the government is reducing its expenditures, Canadians simply will not accept parliamentarians travelling around the world when other means are available.

Of course, Senator Munson should know better. The Prime Minister, when he travels, is representing the whole country of Canada and promoting the interests of this country, but I would expect no less in a comment like that from Senator Munson.

Senator Munson: Have a nice day.

Senator LeBreton: This is true whether the travel is to Afghanistan, Africa, Europe, or the United States. The question of travel and any proposed study are two separate matters; that is why they are considered separately by the Senate. Therefore, an endorsement of this motion should not, in and of itself, be seen as an endorsement of travel by the committee.

I must point out again that there are many good and valid reasons for Senate committees to travel, and no one would argue that. However, I would urge honourable senators, when they are planning their work schedules, to keep in mind that there are hard-working taxpayers out there, and we are accountable to them.

Hon. James S. Cowan (Leader of the Opposition): I wonder whether the Leader of the Government would entertain a question.

Senator LeBreton: Absolutely.

Senator Cowan: Senator LeBreton spoke about her work on the committee of cabinet. I forget the name. What was the name of the committee?

Senator LeBreton: It is the cabinet subcommittee of the Treasury Board. SORC — Strategic and Operating Review.

Senator Cowan: Will the minister assure us here that the committee she mentioned, through her involvement, particularly, will be applying the same sharp knife to ministerial budgets and the Prime Minister's budget as it does to houses of Parliament and the members of both houses of Parliament?

Senator LeBreton: I thank the honourable senator. This has nothing to do with this motion we are discussing, but the fact of the matter is we have already done that; I have put that on the record here in the Senate.

The use of government aircraft has been reduced 80 per cent by this government. Ministerial budgets have been frozen, and ministerial staff has been frozen. This government has been much more mindful of taxpayers' dollars now than was the case in the past. That includes me by the way, if I might blow my own horn. I beg the honourable senator to check the record and see what I have expended as Leader of the Government in the Senate and compare that to the last Leader of the Government in the Senate under Senator Cowan's party.

Hon. Joan Fraser: Will the honourable senator take another question?

Senator LeBreton: Certainly.

Senator Fraser: I will certainly not quarrel — in fact, I am grateful to hear her talk about the utility of technology; it has improved a great deal in recent years. Video conferences, for example, are much more reliable and helpful than they were when we started out using that technology.

In the debate yesterday, which I, for my sins, launched, I was following up in large measure on remarks I had made a few days or weeks ago in the Senate where one of the things that I was

expressing concern about was the very broad and non-detailed, in terms of substance, orders of reference that committees have traditionally sought and been granted by the Senate. It is obviously in the committee's own interest in many ways to seek those broad orders of reference, but the point I have tried to make is that simply giving blanket approval to blanket orders of reference is perhaps not the most appropriate way for the Senate to proceed.

In our discussions yesterday, we talked about travel, yes. However, the reason I was raising travel was not so much to encroach upon the jurisdiction of the Internal Economy Committee as to illustrate that we should have some concept of what it is we are approving.

Would the leader agree with me, as a general principle, that it would be very advisable for committees to give much more detail than they sometimes do now in their requests for orders of reference, and that it would also be advisable, for all but the most picayune little matters, for the chair of the committee to speak to the Senate when moving the adoption of an order of reference to explain just what is involved, what the purpose is, and what the committee expects to be doing and to achieve?

Senator LeBreton: I absolutely and wholeheartedly agree, and I think the honourable senator is absolutely right. I have certainly been more mindful of the issue she has raised. There were motions passed in the Senate not long ago when the chairs of the committees have gotten up and said, "I move the motion standing in my name," and we all were not paying attention to the degree we should have been and perhaps not asking the questions that ought to have been asked. Then we find out after the fact that some elaborate trip has been planned at great cost to the Senate.

I agree absolutely with the honourable senator. We all have to be more accountable. That is why I said there are legitimate, solid reasons for committees to travel, especially within the country. There are places to visit in the world that are in the interest of the country, the government and the institution of Parliament as a whole.

We would be better served, Senator Fraser, if we really and truly understood the purposes of such travel. Then we could all of us collectively, when we are hit with the Tim Naumetz of the world as we are strolling down the corridor, properly defend our fellow honourable senators, no matter what side of the chamber they are on. I totally agree with the Honourable Senator Fraser.

Hon. Mobina S.B. Jaffer: Honourable senators, I had adjourned this motion in my name yesterday. Instead of repeating comments already made, I adopt what Senator LeBreton said in her last statement about her enthusiasm about committees and committee travel, and I certainly adopt what Senator Fraser said.

Before I proceed, I want to acknowledge the great work that Senator Comeau, Senator Cordy and Senator Smith on the subcommittee of the Standing Committee on Internal Economy, Budgets and Administration have done on all our behalf. Having

had the pleasure and task of appearing in front of them, I can inform honourable senators that they do a very thorough job, and they ask us the difficult questions — as they should — before they approve any Senate travel.

Yesterday, I asked a question of the chair of the National Defence Committee. I would not have thought of it before, but we had an inquiry here in the Senate by Senator Comeau where he stated that, when references come in front of us, we need to ask more questions. I will quote what he said:

I also believe that, because all orders of reference must be adopted by the Senate, the Senate itself should be aware of the committee's objectives.

Regretfully, however, many orders of reference are adopted by the Senate with little or no debate. I do understand that it may be because our fellow colleagues have a respect for the work of the committees and recognize that committees are generally masters of their own destiny in choosing which topics they wish to examine. Nonetheless, the senators have a duty to make themselves aware of the orders of reference they are approving to enable Senate committees to do their work.

• (1520)

In light of what Senator Comeau said, I quote Senator Cordy on the same inquiry:

The honourable senator spoke of the responsibility of the committee to have a clear reference and work plan. Our job as a subcommittee was made easier by the committees that came before us with a clear reference.

Honourable senators, I spoke yesterday because I believe that we need a clear motion before we can approve the reference. I stand before honourable senators and say that the work that the Defence Committee does is very good work, and we all very much respect it, but in light of what the subcommittee has asked us to do, I ask that we have a clear reference.

The Hon. the Speaker pro tempore: Further debate? Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to, on division.)

COMMITTEE AUTHORIZED TO STUDY STATUS OF AND LESSONS LEARNED DURING CANADIAN FORCES OPERATIONS IN AFGHANISTAN

On the Order:

Resuming debate on the motion of the Honourable Senator Wallin, seconded by the Honourable Senator Eaton:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the status of, and lessons learned, during Canadian Forces operations in Afghanistan; and

That the Committee present its final report to the Senate no later than December 31, 2013 and that the Committee retain, until March 31, 2014, all powers necessary to publicize its findings.

The Hon. the Speaker pro tempore: Honourable senators, Senator LeBreton has spoken and indicated that her remarks covered Item No. 67 and Item No. 68. Is there further debate on Item No. 68? Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to, on division.)

SENATE COMMITTEE ON HUMAN RIGHTS

INQUIRY WITHDRAWN

On Inquiries, Order No. 36, by the Honourable Senator Harb:

That he will call the attention of the Senate to the action of a certain entity and show the Senate how this action is undermining the credibility of the Human Rights Committee and the credibility of the Senate as an institution.

Hon. Mac Harb: Honourable senators, with leave of the Senate, I withdraw this inquiry from the Notice Paper.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(Inquiry withdrawn.)

**MULTIPLE SCLEROSIS AND CHRONIC
CEREBROSPINAL VENOUS INSUFFICIENCY****INQUIRY—ORDER STANDS**

Leave having been given to revert to Other Business, Other, Inquiry No. 3:

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cordy, calling the attention of the Senate to those Canadians living with multiple sclerosis (MS) and chronic cerebrospinal venous insufficiency (CCSVI), who lack access to the “liberation” procedure.

Hon. Jane Cordy: Honourable senators, I would like to revert to Inquiry No. 3 on the Order Paper.

I have asked whether we could receive a briefing in the Senate as the briefing was given to the members of the House of Commons.

In Question Period today, Senator LeBreton referred to that briefing. I have not heard anything further and, although I am not allowed to ask a question at this time, I wonder whether the honourable leader can let me know later whether the Senate will be offered the briefing.

The Hon. the Speaker *pro tempore*: Is leave granted honourable senators, and an unusual procedure to have the Honourable Senator LeBreton respond to this question?

Hon. Marjory LeBreton (Leader of the Government): I am sorry, Senator Cordy. Actually, I have spoken to the parliamentary secretary and he was very willing and able to provide a briefing. I will follow up to see when he can arrange that.

(Order stands.)

(The Senate adjourned until Thursday, March 8, 2012, at 1:30 p.m.)

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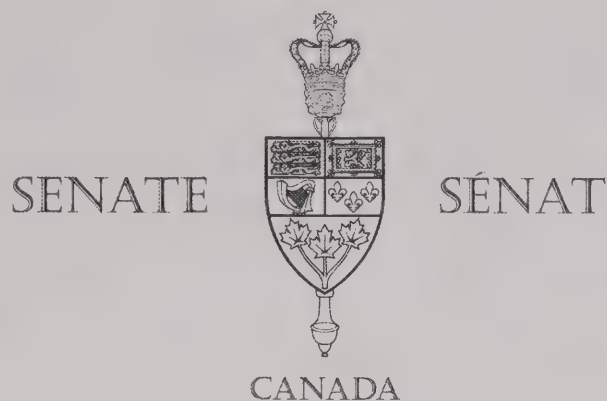


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(HANSARD)

Thursday, March 8, 2012



The Honourable DONALD H. OLIVER
Speaker *pro tempore*

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THE SENATE

Thursday, March 8, 2012

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the chair.

Prayers.

SENATORS' STATEMENTS

INTERNATIONAL WOMEN'S DAY

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, today we celebrate International Women's Day. Each year on March 8, International Women's Day provides us with an opportunity to celebrate the indispensable contribution women have made and will continue to make in all aspects of our society, both here in Canada and throughout the world.

This year's theme, "Strong Women, Strong Canada — Women in Rural, Remote and Northern Communities: Key to Canada's Economic Prosperity," is particularly relevant. This special recognition of the millions of women who live in our rural, remote and northern communities, including Aboriginal communities, is timely and relevant. The Honourable Rona Ambrose, Minister for Status of Women, spoke at the United Nations last month and quite correctly pointed out that these women face unique challenges and opportunities, experiences they share with many of the women who live in rural and remote communities around the world.

As a Conservative woman, I am especially proud of my government's record in many areas of endeavour as they relate to women. We have increased funding for women's programs to its highest level ever, the result of which is that more and more groups are applying than ever before. Obviously, our practical approach is widely acknowledged, and it is working.

For example, earlier this week, in honour of International Women's Week and International Women's Day, Minister Ambrose announced over \$12 million for new projects for women in rural and remote communities and small urban centres. This is targeted support for grassroots, community-based projects right across the country, seeking to assist rural women with some of the biggest challenges they face: violence, isolation and economic stability.

As I have said many times in this chamber, we are committed to working with Canadians across the country to end the abuse of women and girls. Since 2007, we have approved more than \$42 million in projects designed to help end violence against women and girls. Over the last two years alone, Status of Women Canada has committed over \$4.5 million for projects directly aimed at eliminating violence against Aboriginal women.

As well, our government has taken action on numerous fronts to increase women's economic security and prosperity. We are assiduously focused on creating a healthy economy for all Canadians. Status of Women Canada also funds projects in

support of employment prospects for Aboriginal women, to increase growth opportunities for women business owners and, as well, increase the participation of women as leaders and decision makers in previously non-traditional occupations such as in science, engineering, trades and technology.

I know that all honourable senators will join with me in celebrating International Women's Day and acknowledging the important contributions of women who live in communities, large and small, all over our great country.

[Translation]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I would like to join my colleagues in drawing the attention of the Senate to International Women's Day.

We have been celebrating this day, which gives us an opportunity to take stock of the status of women and speak out for gender equality, for over 100 years. It goes without saying that significant progress toward equality has been achieved in that time.

The theme this year is the strength of women in Canada's rural communities. This theme strikes a chord in Alberta in particular, where over 20 per cent of women live in rural communities. I would like to highlight women's major contribution to the economic prosperity of rural, remote and northern regions.

I would also like to point out that the progress achieved to date has not been accidental. It has come about thanks to the courage and audacity of many indomitable women, women who refused to accept the status quo, such as Alberta's Famous Five who, in the Persons Case, challenged the position of women in their day. They paved the way for women, enabling them to participate fully in public life. Early pioneers included Carrie Derick, the first woman to become a professor in a Canadian university, who completed her doctoral studies but did not receive a diploma because the university she attended did not yet award such degrees to women; Agnes Macphail, the first woman elected to the House of Commons; and Cairine Wilson, the first woman appointed to the Senate.

The pursuit of equality has featured prominently in Canada's history thanks to women like these and countless others who have achieved so many of the things we now take for granted, but who do not get the recognition they deserve.

However, the fact that some progress has been made must not distract us from the day-to-day reality that many women still face, a reality marked by inequality and injustice. Much of this reality is all too familiar: the pay inequity that still exists between men and women in Canada; the fact that every day about 3,000 Canadian women seek refuge at shelters to escape domestic violence; and, although women make up half the population, they represent only 25 percent of parliamentarians in Ottawa and only 30 percent of federal court judges. These statistics reflect the fact that gender equality is not yet a reality in Canada.

It is up to each and every one of us, men and women alike, to try to come up with concrete measures to challenge the attitudes that lead to inequality, in order to continue the progress that has characterized Canada's history.

• (1340)

[English]

BRAIN AWARENESS WEEK

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I would like to bring your attention to National Brain Awareness Week, March 12 to 18, 2012, and to Neurological Health Charities Canada, which is a coalition of 26 health charities working to improve the quality of life of people living with neurological diseases, disorders and injuries.

This is an opportunity for us all to be mindful of the importance of brain health and to recognize the brain as one of the body's most critical organs. If the brain does not work properly, every aspect of life is compromised.

In Canada, 5.5 million citizens live with a chronic neurological condition. Most of these conditions are progressive and degenerative, with no known cause or cure; and while therapies exist for some conditions, in most cases there is no way to stop or even slow the progression.

Brain disease is not a normal part of aging; however, there is an increased incidence of these conditions as we get older. Some analysts suggest that within the next 20 years neurological conditions will become the leading cause of death and disability in Canada.

Living well with a brain condition is more than a health issue. The onset or progression of a chronic brain disorder permanently changes one's life. It creates issues and challenges that did not previously exist. It impacts everything about the present and the future, including family relationships, employment, housing, financial stability, education, health and social participation.

I want also to remind us all that our government has taken this issue very seriously, including the allocation of up to \$100 million in the 2011 Budget to help establish the Canada Brain Research Fund. This fund will support the very best Canadian neuroscience, fostering collaborative research and accelerating the pace of discovery, in order to improve the health and quality of life of Canadians who suffer from brain disorders. Total public expenditures on mental health in Canada exceed \$14 billion on an annual basis.

During this year, but especially during the third week of March, let us all learn more about the challenges that those living with brain conditions face every day, including the challenge of access to caregivers and the challenges posed by discrimination. Let us all increase our awareness of these challenges and support those dedicated to improving the lives of those afflicted by neurological damage.

[Translation]

INTERNATIONAL WOMEN'S DAY

Hon. Rose-Marie Losier-Cool: Honourable senators, today we are celebrating the 2012 International Day for 52 percent of the world's population. Of course, I am talking about women.

Sound management of our societies and our planet cannot be achieved without women. Women represent one crucial half of our successive civilizations. And yet women still — always — get the short end of the stick. Many women all over the world suffer from inequitable access to education, employment, power and wealth.

[English]

I welcome the theme chosen for 2012 by the International Women's Day website: Connecting Girls, Inspiring Futures. I also find much comfort in the United Nations report tabled this past January 30: *Resilient People, Resilient Planet: A Future Worth Choosing*. In it, the UN argues that "empowering women and ensuring a greater role for them in the economy is critical for sustainable development."

[Translation]

You know, I was once a teacher and I cannot help but repeat that education is the key to success. Therefore, you will understand that today I am advocating in support of better education for girls and young women before they become adult women and full participants in their society.

If girls receive at least a high school education, they will develop the literacy and numeracy needed in everyday life. They will understand the documents they read, whether public health notices, election leaflets or instruction manuals. They will know to ask questions to obtain more information. And they will be able to influence the economic and social life of their community by participating in discussions.

[English]

However, educating girls and young women should go beyond school books. Indeed, these future women should be familiar with information technologies, be it a smartphone or a computer. They should also be informed on essential health matters, including sexual and reproductive health.

[Translation]

By educating these girls and young women, we are giving them the tools to participate fully and equitably in the life of their community, region and even their country. We are giving them independence by allowing them to take their rightful place on our planet.

Therefore, I encourage our government to continue, in its national programs and international aid, to support all projects and organizations that make it possible for girls and young women to obtain an education in order to build the future.

On this special day, I would like to wish these young girls and young women success as they travel a path where they encounter both great and small moments of happiness and they achieve personal fulfillment.

[English]

WORLD PLUMBING DAY

Hon. Donald Neil Plett: Honourable senators, it is easy to take the availability of clean drinking water and sanitation systems for granted. We saw in the aftermath of 2010's devastating earthquake in Haiti and last year's tsunami in Japan and, indeed, we see every day on many of our First Nation's reserves how fortunate most of us are to have available to us clean drinking water and properly functioning sanitation systems.

Clean drinking water and basic sanitation should not be a luxury. It is something that each and every person on this planet, especially within our own country, should have available to them. Fresh water is, without question, our planet's most precious natural resource. The plumbing industry recognizes the balance that mankind must maintain to guarantee its very existence.

Honourable senators, we all heard Senator Patterson yesterday as he delivered an excellent speech on our government's recently introduced Bill S-8, the safe drinking water for First Nations act. This enactment addresses health and safety issues on reserve lands and certain other lands by providing for regulations to govern drinking water and waste water treatment in First Nations communities. Further, the Conservative government has budgeted some \$2.5 billion over the next seven years for clean drinking water on reserves. This new legislation will build on that investment.

The United Nations declared 2005 to 2015 the International Decade for Action Water for Life. This is of tremendous importance in a world where preventable diseases related to water and sanitation kill over three million people every year — the majority of these being children younger than five years of age. UN statistics show that 783 million people on the planet live without clean drinking water.

Today, I pay tribute to World Plumbing Day, which is celebrated around the world on March 11. This is the third celebrated year World Plumbing Day aims to help the general public better understand the vital role the plumbing industry plays in protecting the public's health and safety in both developed and developing nations. It further helps to educate the public about the work the industry does in helping to conserve the world's increasingly overstretched resources of drinking water and to promote energy efficiency and the increased use of renewable sources of energy.

• (1350)

Honourable senators, please join me on March 11 in celebrating World Plumbing Day and recognize the tremendous contribution that the World Plumbing Council and its members make to improve living conditions around the world.

[Senator Losier-Cool]

GLOBAL SUMMIT OF WOMEN

Hon. Pana Merchant: Honourable senators, on this day, International Women's Day, we recognize the contribution of women to the development of society. The twenty-second Global Summit of Women will be held in Athens from May 31 to June 2.

Bringing honour to our chamber, I have been asked to lead the Canadian delegation. The Senate, our government and businesswomen leaders have contributed to these meetings in the past, notably our friend Senator Poy at the 2001 summit in Hong Kong.

An event like the upcoming 2012 Global Summit of Women helps our European friends who are under financial siege and, at the same time, helps the women of the world in our own quest toward equality.

Women entrepreneurs are in the forefront of the encouragement of best practice models to enhance excellence and productivity in business and in government.

Even in the so-called First World countries, women entrepreneurs and those seeking public life still face systemic barriers to success. Challenges include the need for increased opportunities for women to be involved in the crafting of innovation and learning programs and the need for meaningful access to the international marketplace and the freedom of participation in global markets.

A particularly tough barrier for women in business is the limited availability of credit, even micro-credit.

The socio-economic and socio-political architecture of government and societies vary significantly from nation to nation and continent to continent. The systemic challenges for women are too often negatively reflected by the minimal role women are permitted to play outside of their families. Logically it follows that women who want to expand their business in their own countries, and beyond into global markets, need to change how government works.

[Translation]

Even today, on a global scale, we elect a minimal amount of women at all levels of government. Canada ranks among the top 10 countries where the rate of representation of women is the highest in the upper chamber — over 35 per cent. In Canada's House of Commons, that rate is roughly 20 per cent.

[English]

The Global Summit of Women is a leader of change and a very notable forum where women may exchange their entrepreneurial and governmental experiences, and in so doing become better prepared to direct and manage their own entrepreneurial affairs.

I hope that Canada will host the Global Summit of Women in the not-too-distant future, and I look forward to our strong representation in Athens.

THE LATE SERGEANT WILLIAM STACEY

Hon. Michael L. MacDonald: Honourable senators, last year Canadians witnessed the end of our 10-year combat role in Afghanistan, but this war continues, and it can still reach Canadians in unexpected ways.

My hometown of Louisbourg has produced a monthly newsletter since the 1940s called the *Louisbourg Seagull*. In the January 2012 edition, the *Seagull* highlighted the report by the Australian-American reporter embedded with the United States Marine Corps, featuring a story on Sergeant William Stacey, who was in the process of completing his fourth deployment to Afghanistan. Although he was only 23 years of age, among Sergeant Stacey's many commendations and decorations were the Purple Heart, the Navy and Marine Corps Achievement Medal, the Afghanistan medal with two bronze devices and the NATO medal for ISAF Afghanistan, to name a few.

The U.S. Marine Corps has been deployed in Afghanistan to serve in support of the ISAF, the International Security Assistance Force, mission. This, honourable senators, is the same mission that our own Canadian Forces have so bravely undertaken for the people of Afghanistan.

It was quite evident that both the reporter and the men who served with Sergeant Stacey held him in the highest esteem.

Sergeant William Stacey is no stranger to my hometown. The Stacey family is well-known and long-established in the Louisbourg area. The Staceys are true Cape Bretoners.

Although William and his parents are American citizens, his grandfather Frank faithfully made an annual pilgrimage home with his family for decades, ensuring that his children and grandchildren would stay in touch with their Cape Breton roots. I have so many fond memories of Frank's family, particularly his late brothers Charlie and George, and have heard many stories of his late father, Wylie.

Although he grew up in Seattle, Washington, young William Stacey, from infancy until he joined the marines, made the annual trek to Louisbourg as well. He loved his grandfather's little hometown and could not wait to get back every summer so he could head to the wharf with his fishing rod and catch the mackerel when they were running.

In the February 2012 edition of the *Seagull* there was an addendum to the publication. On January 31, 2012, while on foot patrol in Helmand province in southern Afghanistan, Sergeant Stacey and his colleagues were hit by the blast of an improvised explosive device, otherwise known as an IED, an acronym we have all become too familiar with hearing. One person was injured and there was one fatality, Sergeant William Stacey. He was 23 years old.

Since the report of William's death, the sergeant has been remembered as the confident and charismatic individual that he was, one who was highly respected by his fellow marines.

Lawrence Dabney, the author of the January article aforementioned, wrote:

Will was one of the most impressive human beings I have ever met. Every word I wrote about him in that article was honest and true. That he will not grow into the incredible man he would have been is a tragedy that is going to take me some time to come to terms with. . . . In a few years he left an outsized footprint on the world.

Honourable senators, I would like to share a portion of the letter Sergeant Stacey left to his parents, Bob and Robin, in the event of his death.

My death did not change the world; it may be tough for you to justify its meaning at all. But there is a greater meaning to it. Perhaps I did not change the world. Perhaps there is still injustice in the world. But there will be a child who will live because men left the security they enjoyed in their home country to come to his. And this child will learn in the new schools that have been built . . . He will grow into a fine man who will pursue every opportunity his heart could desire. He will have the gift of freedom, which I have enjoyed for so long. If my life buys the safety of a child who will one day change this world, then I know that it was all worth it.

I was deeply moved by Sergeant Stacey's words. They speak directly to the spirit of the mission in Afghanistan. Every marine soldier, sailor and airman or airwoman, whatever their nationality, should be commended for the bravery they show in fighting for the people of Afghanistan. It is much more than about combating terrorism. It is a mission for those defences against insurgency and a mission to provide freedom to the less fortunate.

Because of men like Sergeant Stacey, the children of Afghanistan will enjoy the gift of freedom: free to go to school, free to live without fear.

On behalf of my hometown of Louisbourg and the Senate of Canada, I would like to take this opportunity to extend our heartfelt condolences to his father Bob, his mother Robin, his grandparents and all the extended Stacey family. Sergeant Stacey will be buried later this month in the Arlington National Cemetery in Virginia. His family will also be erecting a monument to him in the family plot in Louisbourg, the little town in Cape Breton that was his home away from home.

May God bless and rest the soul of Sergeant William Stacey and may perpetual light shine upon him.

INTERNATIONAL WOMEN'S DAY

Hon. Elizabeth Hubley: Honourable senators, the first International Women's Day was observed over 100 years ago. Back then women took to the streets in Europe and the United States to protest and demand basic democratic rights, such as the right to vote and run for office. It was a day for international solidarity, for political action, and for women to raise their voices and speak out. Today women around the world are still struggling for the same democratic and human rights.

• (1400)

In the past year, from Tahrir Square to Red Square, women turned up by the thousands to protest in the streets. The women who participated in the Arab Spring in Egypt, Libya and Tunisia often risked their personal safety to demand freedom and democracy. They now have high hopes for the future. This is a key moment in time for these emerging democracies. It is essential that women be heard and their rights be fully respected and incorporated into all new political institutions.

However, as these countries restructure their governments and ratify new constitutions, women's rights are still far from secure. Afghan President Hamid Karzai's recent endorsement of an edict proclaiming women as second-class citizens is exactly the kind of worrying trend that threatens not only women's future in these countries but the future of their democracies as well. Women are an incredible resource. They have skills, intelligence, creativity and energy in abundance. A country that does not recognize and embrace the powerful talents of its women will not thrive.

On this one-hundred-and-first anniversary of International Women's Day, I urge women around the world to stay vigilant, engaged and aware. The struggle for democracy, equality and human rights is ongoing, and women in many countries, especially in the Middle East, still need our support and our encouragement.

KOREAN WAR

PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY— D COMPANY

Hon. Yonah Martin: Honourable senators, 61 years and a day ago, on March 7, 1951, the men of D Company of the Princess Patricia's Canadian Light Infantry were up at 4 a.m. The night before, they had been in a front line position. They had been brought to the rear, were given absolution by the clergy, and were allowed to wash, get into dry clothes and gather heavy loads of ammunition. They marched off in the dark in ankle-deep snow, five long miles to the start line.

Their objective beyond it was the massive Hill 532. It rose more than 40 storeys above the valley floor. Just beyond the start line, they came under machine gun fire but moved through the enemy rear guard. There were supposed to be air strikes on the enemy, but the sky was laden with snow clouds and the planes never came.

D Company moved up regardless. The slope was brutal, 20 degrees, and even steeper as they neared the summit. With three platoons forward, they moved upward for two more hours. Then they came under withering fire from concealed machine guns. The enemy was there in great force. They outnumbered the Canadians five to one. Canadians were falling; the fire was intense; they ran low on ammunition; they ran out of grenades entirely. Small groups of these brave Canadians pressed on, pressed upward. The bullets coming at them never slackened off.

The attack went on for four hours. The Canadians were exhausted, but they pressed on inch by inch until they were within 100 yards of the summit. Half a hundred of the enemy had fallen. The track down the snow-covered hill was awash with blood from soldiers of both sides.

Shortly before dark, Corporal Roy Rushton from the small town of Tanner Hill, Nova Scotia, asked Captain John Turnbull to put the men to ground. With the attack put in check, the enemy set up a rear guard and withdrew down the reverse slopes. The victory was consolidated early the next morning when the last few enemy surrendered.

This small force of Canadian soldiers had attacked a well-entrenched force five times their size, a force armed with automatic weapons and endless supplies of grenades, and they were successful. They had lost 8 men and 27 were wounded, fully one third of their company. The battle went unsung. Only those who were there remember it.

Honourable senators, now, 61 years and 1 day later, let us remember it and let us remember them. *Nous nous souviendrons d'eux*, lest we forget.

LUNENBURG ACADEMY

Hon. Wilfred P. Moore: Honourable senators, yesterday marked the last day of classes at the Lunenburg Academy in historic Lunenburg, Nova Scotia. This school was built in 1894-95 on Gallows Hill and is affectionately known as the "Castle on the Hill." The site was chosen following an acrimonious debate in town council. The resulting tie vote was broken by Mayor Watson Oxner casting in favour. He was defeated in the next election.

The school was designed by H.H. Mott of Saint John, New Brunswick, and was constructed by the Oxford Furniture Company of Oxford, Nova Scotia. When that builder exceeded the \$35,000 budget, the town council dismissed it and engaged local master carpenter Solomon Morash to finish the building.

The Lunenburg Academy opened its doors on November 7, 1895, and was part of the county academy system of schools in Nova Scotia's Department of Education, teaching grades 1 through 12. The last continuous such house of learning, at its closing yesterday the academy was an elementary school teaching primary through grade 5. Beginning on March 21, 2012, the new Bluenose Academy will open its doors for grades primary through 9.

On March 6, 1984, the Historic Sites and Monuments Board of Canada designated the Lunenburg Academy as a site of both national and architectural significance. In 1995, upon its centennial, the academy was featured on a stamp of Canada.

This remarkable building is a landmark in the town of Lunenburg. Its unusual architectural style is enhanced by an abundance of decorative Victorian designs, sometimes referred to as gingerbread, which create a unique structure admired by townsfolk and visitors alike.

The Lunenburg Academy is owned by the Town of Lunenburg. In 1981 the Lunenburg Academy Foundation was incorporated as a society of volunteers whose mandate is to upkeep, preserve and restore the academy. That community service has been

successfully carried out under the caring leadership of Roxanna Smith and Jane Ritcey. It is now the task of the town and that foundation to strive to ensure that the academy space continues to be used for education-related purposes, and we wish them well in that work.

ROUTINE PROCEEDINGS

PUBLIC SECTOR INTEGRITY COMMISSIONER

CASE REPORT OF FINDINGS IN THE MATTER OF AN INVESTIGATION INTO A DISCLOSURE OF WRONGDOING TABLED

The Hon. the Speaker *pro tempore*: Honourable senators, pursuant to subsection 38(3.3) of the Public Servants Disclosure Protection Act, I have the honour to table, in both official languages, a case report of findings of the Office of the Public Sector Integrity Commissioner of Canada.

[Translation]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

MEETING OF THE POLITICAL COMMITTEE, MAY 1-5, 2011—REPORT TABLED

Hon. Michel Rivard: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Branch of the Assemblée parlementaire de la Francophonie (APF) respecting its participation at the meeting of the Political Committee of the Assemblée parlementaire de la Francophonie, held in Liège, Belgium, from May 1 to 5, 2011.

• (1410)

[English]

QUESTION PERIOD

JUSTICE

MISSING AND MURDERED ABORIGINAL WOMEN

Hon. Sandra Lovelace Nicholas: Honourable senators, my question is directed to the Leader of the Government in the Senate. Today is International Women's Day, and here in Canada I stand as an Aboriginal person, ashamed of the way this government has ignored the cries of Aboriginal women over the murder of their mothers, aunties, daughters, sisters and children. The government has failed to provide justice for the victims and healing for the families, or to end the violence. The government should be ashamed of itself.

The United Nations sounded the alarm of missing women and murdered Aboriginal women years ago, and it has now launched an investigation into this matter. The government is refusing to

act and is ignoring this serious situation, adding yet another blemish to Canada's international reputation. The government's contempt for Aboriginal people is completely horrifying.

Will the Conservative government stop embarrassing Canada on the world stage and agree to cooperate fully with the United Nations inquiry?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I thank the honourable senator for the question. Like all women and all Canadians, I feel the issue of murdered and missing women in Aboriginal communities — and violence against women, generally — is to be soundly condemned. Although the honourable senator has every right to feel the way she does, as a Canadian woman and as a parliamentarian I do not feel that the government or any of us view this subject in the terms she stated.

We are well aware of the apparent note that was sent to the United Nations. As far as I know, we have not formally heard from the United Nations, although I could be wrong. I will check that for you, Senator Lovelace Nicholas.

This is a blight on all of us, and it has gone on for many years. The honourable senator is absolutely right that it is intolerable. Everything we can do to combat this and do something about it should be done, and we are trying our very best. We will continue to work with police officials, provincial governments, territorial governments and Aboriginal groups to address not only this terrible situation but also the ongoing safety of women and girls.

In October 2010, we announced seven concrete steps that would be taken to fulfill our investment of over \$10 million over two years to address the issue of missing and murdered Aboriginal women. Through this investment, new tools have been provided to law enforcement officials, and improvements are being made in the justice system.

That is not to say, honourable senators, that everything is as it should be, but I think it is quite unfair and quite incorrect to characterize this situation in the manner that the honourable senator did.

Hon. Mobina S.B. Jaffer: I have a supplementary on what Senator Lovelace Nicholas asked before I ask my main question.

To the Leader of the Government in the Senate, I have asked this before and I would ask again: As she is very much aware, there is an Aboriginal missing women's inquiry in British Columbia. Unfortunately, the lawyers for the women who are missing have now withdrawn because the women, after over 50 days, have still not had their voices heard.

Is our federal government doing anything to support these families?

Senator LeBreton: That is a good question. This is a matter of a public inquiry being conducted in the province of British Columbia. I do not know specifically what involvement the federal Department of Justice has had in the process, but I would be very happy to try to find out.

STATUS OF WOMEN

VIOLENCE AGAINST WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, my question is for the Leader of the Government in the Senate. Today, Thursday, March 8, is International Women's Day, a day on which we recognize the economic, political and social achievements of women around the world. Unfortunately, today is also the anniversary of the death of Ms. Arlene May. On March 8, 1996, as the international community celebrated International Women's Day, Arlene May's family grieved the death of their daughter. It was on this day in 1996 that Arlene May was murdered by a man who was once her common-law partner.

Sadly, Arlene May is not alone. On any given day, over 3,000 Canadian women are living in emergency shelters to escape domestic violence.

As I have said at other times, I know that when the leader was working with Prime Minister Mulroney she was very instrumental on many programs set up to prevent violence against women. Today, as the Leader of the Government in the Senate, would she inform us what exactly our government is doing to protect women like Arlene May, who are victims of domestic and spousal violence?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. She is quite right: This is a subject I have been intimately involved with for quite some time, including, as she mentioned, during the Mulroney government. That was when I first had the opportunity to meet Senator Jaffer; we appointed her to a special board on the subject of violence against women.

I do not know whether she was in the chamber when I made my statement earlier today, but there have been significant increases in funding. Minister for Status of Women Ambrose has just announced further funding focusing on women who live in rural and remote areas and particularly targeted on programs that deal with isolation, economic security and, primarily, violence against women. There is a long list of programs that the government has participated in, not only through Status of Women but through the Department of Justice Canada and through the Minister of Public Safety.

I have a long list. I know I do because I use it as the basis for the many speeches I give on the subject, and I would be happy to give Senator Jaffer a long, detailed answer by written response.

Senator Jaffer: I understand that the leader cannot give an oral answer on this and I respect that. However, when she is providing the information, may I please also ask that she provide the steps our government is taking or has taken to have in place ways to prevent violence against women? What are the exact steps; what tools are currently in place to ensure the safety of women like Arlene May; and, finally, are there any specific programs for newly arrived immigrant women?

Senator LeBreton: Honourable senators, the government has involved itself in various programs to combat violence against women. The elder abuse campaign was sort of a spinoff of the

campaign this government and previous governments had run on violence against women.

• (1420)

With regard to immigrant women, we had before us last week Bill C-10, which has specific provisions to deal with human trafficking and the abuse of immigrants who come into the country.

I will be happy to add all of those topics to my answer when I respond.

Senator Jaffer: I appreciate that. I commend the leader on the elder abuse campaign that was run. I found it very instructive.

May I ask that the leader now consider a campaign for people who are newly arrived in our country so that they will be aware of where they can turn to so that they are not alone or isolated when they face violence?

Senator LeBreton: Again, as I mentioned, there are specific provisions that will be provided once Bill C-10 is passed that target the people who would abuse women — and they are primarily women, because many are domestic workers.

To follow up on a question by Senator Lovelace Nicholas, and with the permission of Senator Jaffer, I will provide to Senator Lovelace Nicholas a copy of an answer. It was the honourable senator who asked this question about missing and murdered Aboriginal women and girls in B.C. We provided an answer to the question that was asked last November and December. We filed it here in the Senate on February 7. With Senator Jaffer's permission, I would like to ensure that Senator Lovelace Nicholas gets a copy of it.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

EMPLOYMENT INSURANCE— WOMEN LIVING IN POVERTY

Hon. Art Eggleton: Honourable senators, on this International Women's Day I draw attention to the fact that far too many women in this country live in poverty. The overall poverty rate is bad enough at about 10 per cent of the population. Thirty-six per cent of Aboriginal women live in poverty; 35 per cent of visible minority women live in poverty; and 21 per cent of single mothers live in poverty. These are appalling statistics in this rather rich country.

One of the main reasons why women slide into poverty is because approximately 40 per cent of women in paid employment work in nonstandard arrangements. They are employed part-time or in temporary, casual or contract work. In the EI system, where eligibility for benefits is based on hours worked, women are less likely to be eligible for benefits.

I ask the Leader of the Government in the Senate if she will advocate with her cabinet colleagues that the government change the Employment Insurance program to reflect the challenges faced by women?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, there is no doubt that many people in the country, women and men, live below the poverty line. There are many things that the government has done to assist people who are living with low incomes; many things the government has done to assist single seniors who live in low-income circumstances; and many things the government has done for women.

Honourable senators, it is fair to point out that in this country, although we have our problems and there are many people who deserve the assistance of the government and get assistance from the government at various levels, many people do everything possible, whether it is government or charitable organizations, to assist people who are not as fortunate as we are. As I mentioned to Senator Jaffer, this government has many programs, from removing low-income people from tax rolls to providing for child tax benefits for families. Of course, many of these women are mothers. As I said to Senator Jaffer, there is a long list of various programs in various departments through HRSDC, through Status of Women Canada, through the Department of Health, and even through the Department of Public Safety, that are designed to assist people who are not as fortunate as we are.

I will be happy to provide that list to Senator Eggleton. Whether we are in government or whether we are involved in a social agency or charity, no one likes to see anyone living in conditions that are not optimum. I will be very happy, as I said before, to provide him with all the details, because they are significant.

Senator Eggleton: There are two things about that. One is that I simply asked her to advocate one particular program, Employment Insurance, which is a government program, particularly in regard to the challenges of women who find themselves in that program. I ask her to advocate for that kind of a change.

Yes, the leader frequently talks about the things the government is spending money on and that is fine. It would be good if we got an answer some time that said what the impact of that spending is and whether it really is making a difference. We get these statistics year after year that say things are still pretty bad. I am more interested in impact statements than I am in spending statements per se.

I will ask a supplementary question. Another major reason women slide into poverty is the lack of access to affordable early learning and child care. We know that if affordable early learning and child care is available, it enables parents to work or, if unemployed, to enter training programs to upgrade their skills. It also provides children with early childhood education that will help them succeed in the future. In fact, a Canadian cost-benefit study showed it would produce a \$7 social and economic return to our society for every \$1 spent. That sounds like a good investment.

When the government cancelled the provincial child care agreements in 2006, the reason, they said, was to add choice to the system. Thousands of child care spaces, however, were lost. Lost spaces limits choice, does it not?

Let me ask her again if she will act as an advocate with her cabinet colleagues to the government to implement a dedicated funding plan for early learning and child care spaces in the 2012 budget.

Senator LeBreton: Honourable senators, this is universal child care the senator is talking about, something that was advocated from 1993 until 2006 by the government that Senator Eggleton was a part of. It was always talked about and never delivered. In our case, we made it very clear we did not support that program.

In our case, honourable senators should know that the provinces and territories receive \$250 million a year to support the creation of child care spaces. They have announced 102,000 new spaces since March 2007. The provinces now have predictable and growing funding through the Canada Social Transfer, \$1.28 billion for early learning and child care in 2010-11 alone and growing at 3 per cent a year.

We are investing, honourable senators, three times more than the previous government on early learning and child care, \$6 billion altogether in 2011-12, which is the largest investment in Canadian history.

As we are rolling things together here, the senator asked for results. On the issue of violence against women, we have approved over \$42 million in funding for projects to end violence against women. I do not know how one actually gauges this, but it is to be hoped that this \$42 million investment has in fact made a considerable dent in the problem. I do not know whether there is any way of gauging the success of some of these programs, but on all these fronts this government has been very vocal and very much in the forefront in addressing all of these issues.

• (1430)

OLD AGE SECURITY SUPPLEMENT

Hon. Grant Mitchell: Honourable senators, my question is for the Leader of the Government in the Senate. Why is it that married and widowed women between the ages of 60 and 64 living in poverty are eligible for the OAS supplement, while women who are divorced or never married — otherwise in the same circumstances — are not eligible for that special OAS supplement? How fair is that?

Hon. Marjory LeBreton (Leader of the Government): I actually think that is incorrect. Thanks to our government, they only have to apply for the Guaranteed Income Supplement one time. It is based on their income. The honourable senator would have to give me a precise example.

The Guaranteed Income Supplement is exactly what it is. It is a guaranteed income supplement for those people who, based on their income tax, are eligible. I do not think whether they are single or divorced or married enters into it. Unless he can show me a specific case where this has happened, I think he is probably wrong with his facts.

Senator Mitchell: The Guaranteed Income Supplement applies to people over the age of 65. The honourable senator should know this because she was the minister responsible for seniors, for crying out loud.

This is a special OAS supplement that is given to women who are married or widowed between the ages of 60 and 64, but is not given to women who are between the same ages, who live in the same poverty, but are divorced or never married. Maybe she should check into it and find out, because that is something she should know.

Senator LeBreton: I must have been looking the other way when I brought that program in.

The honourable senator talked about the Guaranteed Income Supplement. The Guaranteed Income Supplement is available to all people, and it is what it is. It supplements their old age pension. I would appreciate it if Senator Mitchell dropped me a note and gave me a precise example of what he is talking about.

STATUS OF WOMEN

GLOBAL GENDER GAP—WORLD ECONOMIC FORUM

Hon. Joan Fraser: Honourable senators, I have a question for the Leader of the Government in the Senate. This refers to a recent report from the World Economic Forum, an organization that is hardly a representative of the “loony left.”

Each year, the World Economic Forum publishes a global gender gap index. What that index does is measure the gap between men and women in 114 countries in terms of their access to resources and opportunities on four criteria: political, education, health-based and economic.

When the index was first published in 2006, Canada ranked fourteenth, which perhaps was not quite as good as we might have hoped, but not as bad as all that.

Three short years later, in 2009, we had dropped from fourteenth place to thirty-first place in terms of the gap between men and women in Canada in terms of access to those resources and opportunities that I mentioned. Someone may have realized that something was going wrong because we started to claw our way back in the rankings, and by last year we were back up to eighteenth — still not where we had been in 2006, but a lot better than thirty-first. However, we had lost five precious years. Why?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I imagine the global economic downturn probably had some bearing on this, although I cannot be sure.

The fact of the matter is I can only answer for what the government has done. This is a broadly based study that takes a lot of factors into account: industry and business, private sector and public sector. I can only answer for what the government has done. I think if one is to be fair and look at the number of women who are now serving at the senior levels of the public service, it has increased, — and Senator Losier-Cool will call me up on this, I am sure. We are making every effort to increase the number of women in our judiciary, including for the first time ever naming a woman as the Chief Justice of Quebec.

Through the order-in-council appointments process, we bring women into the government. I do have knowledge of this because, when I took over this file in 1986, less than 13 per cent of the

whole order-in-council population were women. They were in stereotypical roles like pension review boards and the Status of Women. In seven short years, I moved that number from less than 15 per cent up to 33 per cent. We had women as heads of the Export Development Canada and the Veterans Review and Appeal Board, and vice-chair of the Canadian Transport Commission, among others.

Now, we are very careful as a government to make sure we have women well represented in the appointments process and in the promotions process in the public service. I would have to get a full briefing on the conditions and who was involved in the survey, but I can only answer for the government. I can say that, as a woman serving in this government, I have never been more comfortable in my life in politics.

Senator Fraser: I expect it was modesty that prevented the leader from mentioning that the Leader of the Government in the Senate is a woman. Not the first, but a woman nevertheless.

Interestingly, of the four criteria this index measures, in the private sector — the one where she says the government has the least influence — economic participation and opportunity is where Canada ranks best: tenth out of 114. On educational attainment, we rank thirty-first. On health and survival, we rank forty-ninth. On political empowerment, which the leader has just been talking about with pride, we rank only thirty-sixth.

The countries that stand ahead of us in these rankings include, predictably, Scandinavian countries, places where we know that the status of women is extremely advanced, but also include the Philippines, Lesotho and South Africa. On political empowerment, we rank behind Burundi, Costa Rica, Mozambique, Argentina, Uganda, Austria, Guyana, Ecuador, Chile and many others.

I ask again, political empowerment is squarely within the ambit of the government. Why are we doing so badly?

Senator LeBreton: First, Senator Fraser is asking me to speak to a report. I do not know its methodology. I do not know what the questions were. I will have to familiarize myself with what this report says.

Honourable senators, as women we really do ourselves a disservice to somehow paint a picture that in this country there are diminished opportunities for women. I can think back to when I went to school. Women were never even considered for university. We were going to be homemakers, teachers, secretaries or nurses. I actually thought I was going to be a nurse, believe it or not. That is what I wanted to be, initially.

The fact of the matter is, honourable senators, and Senator Fraser knows this as well as I, right now in our universities in medical schools and legal classes, women outnumber men. As honourable senators know, I am involved in a large scholarship program at the University of Ottawa and there are far more women coming out of the law program. Evolution is taking place. As opposed to when I was a young woman, there is now a much bigger base and these young women they will make their way into politics, if they so choose.

• (1440)

Senator Fraser also knows — and I know this from experience — that there are far more choices for women. I know as well, having tried to attract women into politics and even into government order-in-council appointments, that women consider the whole picture. They consider their families, peers and the people they work with. When one approaches a woman to either serve in the government or run for a political party, they consider all of these things. Often they will make the choice, which is their right, not to enter into public life at various levels.

When I was doing this, especially the order-in-council appointments, I would call up a gentleman and ask if he was interested in such an appointment, and he would say yes without even considering talking to his family.

There are many factors in trying to attract women into politics. However, I dare say that we have a fairly good record here in the Senate. I do remember a time when there was only one, and then two, members of the House of Commons who were women. We have a long way to go, but do not diminish the great strides we have already made.

POINT OF ORDER

SPEAKER'S RULING

The Hon. the Speaker *pro tempore*: Honourable senators, yesterday a point of order was raised by the Honourable Senator Kenny. His objection related to remarks made in the chamber earlier in the week. Among other things, it was alleged that these remarks touched on proceedings of an in camera committee meeting held several months ago in a previous session. Little was said during the discussion of the point of order to assist the chair in identifying what might have actually happened. It is not the role of the chair to delve into what may or may not have been in a meeting held so long ago. Nonetheless, I do wish to take this opportunity to remind honourable senators that they should be careful to avoid referring to proceedings or documents from in camera meetings. This limitation must be kept in mind. I consider the matter closed.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that, as we proceed with government business, the Senate will address the items in the following order: Bill C-19, Motion No. 32, Bill S-7, and Bill S-8.

[Translation]

CRIMINAL CODE FIREARMS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Lang, seconded by the Honourable Senator Stewart Olsen, for the second reading of Bill C-19, An Act to amend the Criminal Code and the Firearms Act.

Hon. Céline Hervieux-Payette: Honourable senators, today is a rather sad day for me because, as opposition critic, I must discuss Bill C-19, despite the fact that it is International Women's Day.

I come from a province where women have been the victims of gun violence, but where they also waged an extraordinary campaign to ensure the passage of the legislation that the government wants to abandon today. The abandonment of this bill will prevent victims' families and friends from having the satisfaction of knowing that the loss of their daughters and friends was not in vain.

I would like to give an overview of the situation in order to help my Conservative colleagues understand that the changes made to this legislation are measures that will certainly not help to move Canada forward on the international front and will certainly not help to further the cause of women's rights.

That being said, I would like to clarify the issue by reading the dictionary definition of a firearm:

A weapon, especially a portable gun or pistol, from which a projectile can be discharged by an explosion caused by igniting gunpowder, etc.

In recent centuries, since the late Renaissance, firearms have become the predominant weapon used by mankind, and this has led to tremendous changes in the art of war.

Today, I would like to remind honourable senators that firearms can be found throughout the entire world. I will give some statistics later. The proliferation of firearms has certainly not helped to improve the human condition, nor the condition of women and children in our country. In fact, the purpose of passing the Firearms Act in 1995 was to reduce the number of victims killed as a result of the misuse of firearms.

This is not a condemnation of the use of firearms by farmers or hunters. My father was a very good hunter and my appetite for venison surely comes from the fact that, when he was living, I was able to eat deer, caribou, moose and rabbits quite regularly. This shows that I am not ideologically opposed to this bill. I think the government has a responsibility to regulate firearms, so that they are used for the right purposes.

I want to show that, as senators, we should reflect on the use of firearms, which are dangerous weapons that kill people all over the world.

When this legislation comes into effect, firearms will no longer have to be registered, except prohibited or restricted firearms. So, this is a huge step backwards. In fact, there will be fewer obligations than there were before the act was passed in 1995.

By eliminating the mandatory registration of firearms, the Harper government is going against the teachings of the Supreme Court in the *Reference Respecting the Firearms Act*, which provides that registration is “integral and necessary to the operation of the scheme” whose purpose is “promoting safety by reducing the misuse of any and all firearms.”

As stated by the Coalition for Gun Control in its 2011 brief, this bill will first make licensing verification optional when non-restricted firearms are bought, thus making access to legal firearms easier for individuals who do not have a proper license, or who have lost the privilege to own and use firearms, following a prohibition order issued by a court.

Second, the data on the 7.1 million non-restricted firearms that have already been registered will be destroyed, despite the fact that such data could be useful to police investigative work to trace firearms used to commit crimes. Several international treaties require countries to keep track of firearms sales, in order to trace them more easily. This goes beyond the frontiers of Canada and, of course, beyond those of the continent.

Third, the bill does not include provisions to restore the obligation for businesses to keep sales records for firearms. That obligation, which had existed since 1977, was abolished to harmonize it with the 1995 act, since that information would then be in the registry. By abolishing the registry, we are abolishing the 1977 obligation.

Without that information, there will be no longer any way for police officers to find out where the rifles and shotguns used in crimes came from or to confiscate such weapons from suspects.

Fourth, the government is destroying a tool that police use to get guns out of the hands of dangerous or suicidal people, enforce prohibition orders and take preventive measures.

That is the scope of Bill C-19.

Last week, Conservative Senator Daniel Lang told the Senate that his government, through Bill C-10 in particular, would impose harsher but fair sentences and develop a corrections system designed to correct criminal behaviour.

• (1450)

The Canadian Bar Association disagrees, providing tangible evidence that Bill C-10, the Safe Streets and Communities Act that was passed last week, poses a threat to Canadian public safety. Bill C-10 will result in new prisons, impose jail time for minor, non-violent offences, justify mistreatment of prisoners and interfere with the transition of inmates back into society. Add Bill C-19 into the mix, and we find ourselves at an impasse.

The Canadian Bar Association is also concerned that, if Parliament passes this bill, which is just as ideological as

Bill C-19, the safety of communities in general and police officers and family members in particular will be compromised.

Senator Lang also said that in order to reduce crime, the Harper government has made sure to put more police on the streets. Why then is the government not listening to the police when it comes to Bill C-19? The Canadian Association of Chiefs of Police, Quebec's police associations, and the Royal Canadian Mounted Police all advocate maintaining the firearms registry, because they feel that it saves lives and allows them to do their work more safely.

The Conservative government insists on abolishing a registry that the RCMP considers to be very useful for judicial and police services. In a recent assessment of the Canadian Firearms Program, the RCMP reported three things to confirm that the firearms register is critical to the safety of Canadian citizens. First, it improves the safety of officers on duty. The RCMP found that the existence of the registry allowed its officers to better prepare for a raid on a residence by assessing potential threats and knowing how many weapons were there. The benefits are obvious.

The RCMP also feels that investigations are supported by this registry. It helps in tracing weapons. The automated and centralized registry allows police forces to speed up searches directly on the premises where they need them. In addition to enhancing public safety, the registry helps police officers seize firearms in cases involving family violence or mental illness.

The goal of maintaining the firearms registry is clear and obvious, and respects this idea of public safety. Abolishing the registry will make it harder for the police to anticipate the presence of firearms when they are called to potentially violent crime scenes.

In Quebec, the provincial government's position is unequivocal. The authorities believe in a universal firearms registration system as a valuable tool that promotes crime prevention and supports the work of the police, prosecutors and health care providers.

Unlike the federal government's position, that of the Quebec government is supported by many agencies, health and public safety experts and police organizations in Quebec.

Last week, Conservative Senator Daniel Lang claimed there is nothing to prove that getting rid of the registry will change matters when it comes to suicides and homicides. How can the honourable senator say such things without providing us with any data?

Statistics and scientific facts show that much of the progress in terms of public safety can be attributed to the creation of the firearms registry in 1995. The Polysousouvent organization said so in its submission to the Standing Committee on Public Safety and National Security in 2011. The organization's researchers came to the following conclusions.

First of all, the number of firearms-related deaths decreased by 34 per cent between 1995 and 2008.

Second, the number of homicides committed with long guns — shotguns and hunting rifles — fell by 41 per cent between 1995 and 2010. In 2009, the number of homicides with long guns reached its lowest level since this type of data started being collected in 1961.

Third, according to Statistics Canada, much of the decline in firearm-related homicide since the early 1980s can be attributed largely to a decrease in homicides involving a rifle or shotgun.

Fourth, before the adoption of the Firearms Act, in 1991, long guns accounted for about 60 per cent of firearms used to commit murder, compared to 30 per cent with handguns. In 2010, it was 23 per cent. Although the majority of gun murders are committed with handguns today — 64 per cent in 2010 — it is not because long guns are less dangerous, but because the law had the intended effect on the weapons newly covered under it, that is, long guns, the very type of firearms that were previously most often used for hunting or to kill animals disturbing farms.

Fifth, the number of women murdered with guns dropped by 64 per cent between 1995 and 2007. Such a decline is hard to ignore. From 2000 to 2009, almost a quarter — 23 per cent — of intimate partner homicides were committed with guns. This proportion was second only to knives.

Sixth, the number of armed robberies using firearms fell by 56 per cent between 1995 and 2010.

Seventh, suicides by firearms fell by 48 per cent between 1995 and 2008.

Eighth, maintaining the long gun registry is cost effective. According to the latest information, it costs only \$4 million a year. The money already spent to establish the registry certainly cannot be recovered and represents an investment in public health and safety. I will give you some statistics on that a little later on. In the administration of this legislation, we must consider not only the registry, but also all the other departments involved, including the RCMP.

It is not surprising to hear Senator Lang say that the statistical data have shown no correlation between the implementation of the long gun registry and a decline in the criminal use of firearms. After all, since when does the Conservative government place any stock in scientific fact or statistical data, especially after what it did to Statistics Canada?

Senator Daniel Lang added, in his speech to the Senate, that the government can “reduce crime by spending taxpayers’ money effectively.” I would remind Senator Lang and his Conservative colleagues that the Parliamentary Budget Officer, Kevin Page, has just tabled a report on the fiscal impact of the changes resulting from just one aspect of Bill C-10. He seems to present a perspective that is diametrically opposed to that of Senator Lang. To date, at least in the Senate, no serious government study has provided Canadians with the cost of implementing the bill, and I am referring to all aspects of the bill. Mr. Page has estimated that it will cost billions of dollars.

In his report presented on Tuesday, February 28, Kevin Page stated that amending just a single section, namely section 741.2 of the Criminal Code, under Bill C-10, could result in additional expenses amounting to tens of millions of dollars for Ottawa and the provinces.

The Conservatives talk about costs. I am talking about the lives of women that have been sacrificed because someone wants to get rid of gun control and eliminate the registry.

I would really like to ask Senator Lang, when he claims that the government intends to spend taxpayers’ money effectively, if we should include the additional cost arising from a single measure in Bill C-10, which amounts to \$8 million dollars a year for the federal government and \$137 million dollars a year for the provinces.

The Conservative government’s intention to abolish the registry is a stunning, if not deplorable, paradox.

The Barreau du Québec reminds us that the Conservative government set itself the goal of “making streets and communities safe,” which led to the introduction and first reading of Bill C-10 on September 20, 2011.

• (1500)

Given this self-proclaimed desire to ensure the safety of Canadians, the legislative choices to remove the obligation to register long guns and to destroy the existing firearms registry are counterproductive to the objective of protecting the public, which the government claims to want to achieve through these choices.

I would also like to refer to Senator St. Germain’s statement, which mentioned an amount of \$2 billion. It is always easy to talk about costs that are spread over a period of 17 years. Honourable senators, I am a member of the Finance Committee and, the last time I checked, the estimates have never referred to budgets presented over a period of 17 years. Generally speaking, the estimates refer to the current budget and, if there are additional expenses, they are included in the Supplementary Estimates. Nonetheless, they are talking about a period covering 1995 to 2012.

According to the Auditor General, in 2001 the annual cost of administering the program was \$200 million. The Auditor General of Canada has also said that the annual funding for the program is currently set at \$82.3 million. She was taking into account the fact that several departments and provincial governments participate in the program but that the primary responsibility belongs to the Canada Firearms Centre.

The federal partners that incur costs are the Royal Canadian Mounted Police, the Canada Border Services Agency, Correctional Service Canada, the Parole Board of Canada, the Department of Justice and others.

There is no need to cause a fuss by saying that the registry itself costs \$100 million. The figures speak for themselves, and we can see from the government’s official data that all these organizations contribute not only to administering the program but also to ensuring the safety of Canadians.

I would like to talk about the firearms industry. Even if I do not succeed in convincing the honourable senators of the importance of keeping the registry, it is still important to look into the situation a little. I would like to make a comparison between Canada and the United States.

According to the most recent data I consulted, from 2010, there are currently 270 million firearms in the United States. There are on average 10,000 gun-related deaths every year. Out of the 32,000 suicides that occur every year in the United States, 17,000 people commit suicide using a firearm. This means that over half of all suicides in the United States are committed using a firearm.

As for accidents caused by the mishandling of firearms, there were 789 deaths in 2010. Every year, the United States — despite the fact that the country produces and exports huge numbers of firearms — imports \$1,585,242,738 worth of firearms. As you can see, it is a very lucrative business that puts a lot of money into the pockets of those who engage in it.

I will now summarize the situation here in Canada. It is estimated that 9,950,000 individuals possess firearms in Canada. In other words, one out of three Canadians owns a firearm. As for the number of firearms in Canada, we rank 13th among various OECD countries. In the United States, about 88 per cent of Americans own a firearm. So, Canada ranks 13th with 30 firearms for every 100 people, and is among a group of similarly ranked countries like Sweden, Norway, France and Australia, where approximately one-third of the population owns a firearm. I would remind honourable senators that in Canada, 80 per cent of the population lives in an urban setting and only 20 per cent lives in a rural environment.

There are 7,514,385 registered firearms. We talk about guns, but who are the owners? A total of 3,500,000 owners participated in the program and registered their firearms. This means an average of three guns per person.

I am going to provide other numbers to give a clear idea of the situation in our country. Canada exports \$90,237,690 worth of firearms to the United States. We are a small exporter. However, we legally import \$154,645,493 worth of firearms, which are registered.

If we take a close look at the situation, we realize that a registry legally exists. We are talking about millions of users, about millions of firearms, about a system developed by Canadians for Canadians, and paid for by Canadians across the country. That system works, despite initial difficulties.

When we read the Auditor General's report, we note that there were problems at the beginning. They were related to the registration process, the interaction between departments, and also the use of computers to collect and process all this data. Today, I am not going to blame the public servants and the experts who devised this system. When we develop a new system — such as, for instance, the SAP management system and its implementation — we know that it is a costly process.

I now come to the concerns of two groups that are very dear to me, namely the Fédération des femmes du Québec and the Fédération des ressources d'hébergement pour femmes violentées et en difficulté au Québec.

They say that this bill, which seeks to abolish gun control in Canada — despite the fact that the existing legislation has proven its value and is considered an essential tool for police officers — basically ignores the Canadian Charter of Rights and Freedoms, which provides that “everyone has the right to life, liberty and security of the person.”

The gun registry is a means to protect the life and security of Canadians. The two federations add that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination.

The idea is not to set people who live in the North, in the Prairies or in large urban centres against each other. When it comes to protecting citizens, the law of the land applies equally to everyone. I think the federations are absolutely right.

They add that Bill C-19 is completely at odds with the spirit and letter of a recent statement made regarding violence against women and adopted by the members of the International Organization of la Francophonie, during a session chaired by the Government of Canada. That session was chaired by our colleague, Senator Josée Verner, when she was the Minister of Intergovernmental Affairs.

I remind honourable senators that we have a past history and that we are here to work together, to find and apply the best solutions. We are not here to fulfill the wishes of a thriving industry.

• (1510)

Today I would like us all to remember not only the École Polytechnique tragedy, but other incidents that happened in Quebec: Dawson College, Concordia University, and the armed attack on Quebec's National Assembly. Quebec's past includes many incidents involving the malicious use of firearms. Gun control is one way to prevent such tragedies.

Not long ago, Canada sought membership in the United Nations Security Council. As part of the Convention against Transnational Organized Crime, Canada worked on the firearms protocol, which was adopted on May 31, 2001, by the General Assembly and came into force on July 3, 2005, once the required number of countries ratified it.

Unfortunately, even though the United States worked on drafting the protocol, it decided against signing it. In a few minutes, I will explain why the United States backed away. For its part, the European Community signed the protocol on January 16, 2002, and in 2010, the European Community proposed a legislative measure to align the European Union's legislation with the provisions in article 10 of the protocol. Article 8 of the protocol covers the marking of firearms for purposes of identification, article 7 calls for records to be kept for at least 10 years, and article 10 details general obligations concerning the licensing and transit authorization system.

The protocol also defines the confiscation, seizure and deactivation of firearms and requires states to adopt legislative measures to criminalize certain activities. It calls for cooperation, the regular exchange of information between states and measures to regulate brokering.

Honourable senators, if Bill C-19 passes, Canada will never be able to comply with the spirit and the letter of the protocol that it helped draft, but that the Conservative government did not ratify. It is a shame that Canada has chosen to side with the countries that refuse to comply with international rules instead of with the 57 countries that have ratified the protocol.

In contrast, I want to give you a brief overview of the situation in Europe because there are some countries that do not belong to the European Union. We realize one thing when we analyze the arms and munitions legislation of six European countries, namely Germany, Denmark, Spain, Great Britain, the Netherlands and Switzerland: each of these countries has carefully studied the conditions for acquisition, possession, use and carrying and transporting firearms by individuals.

Of these countries, Denmark and the Netherlands are the only countries to have opted for a general prohibition. In other words, in general, people cannot purchase firearms, for instance for hunting or for killing harmful animals. But there is an exception that allows them to obtain a firearm when they prove that they need it. They have a general prohibition, but there is an exception.

The other four countries authorize the acquisition and possession of certain types of firearms. I cannot say whether the same guns are authorized in all countries, but, in general, handguns are obviously prohibited, as well as rifles, because recreational hunting is commonplace in Europe. It is important to remember that firearms are subject to severe laws and people must register their guns.

In certain cases, guns are registered with local authorities. Nevertheless, all these countries have gun registration. For countries that have gone through wars, this measure allows them to guarantee the safety of their people.

I tell myself all the time that my colleagues opposite are intelligent people. So why do they support the abolition of the gun registry? In doing my research I discovered the reason.

You will not be surprised to learn that the National Rifle Association is behind it all. It is a very powerful lobby in the United States and it does not want any controls on any type of firearm. It has been working to abolish the registry in both the United States and Canada for a long time. We now know that — and I will quote Mr. Tony Bernardo, a well-known Conservative who is a fervent defender of firearms and the executive director of the Canadian Institute for Legislative Action, the CILA.

[English]

The NRA has provided logistical and tactical support to organizations such as the Canadian Institute for Legislative Action (CILA), established in 1998 to lobby Ottawa to shut down the registry.

He also wrote in the *Canadian Firearms Digest*:

The NRA provides the Canadian gun lobby group with tremendous amounts of logistical support, and while the NRA's constitution prevents them from providing money, they freely give us anything else. . . .

Moreover, in 2000 the NRA paid \$100,000 for an infomercial about what is called "the Canadian situation." The infomercial aired on the national network in the U.S., according to Bernardo, who appeared in the video. That means they provided some material to ensure that the information was transmitted, and we know there is no barrier and no frontier between Canada and the U.S. when it comes to television.

Bernardo is a frequent guest of the NRA chat shows updating U.S. gun owners on the fight to kill the Canadian registry. The NRA was instrumental in helping him set up his Canadian lobby group, and they gave him all the technical support so that Bernardo could do the work here and make sure that the registry would be abolished.

I will now quote someone from Ontario. I read in a report that Michael Bryant, the former Attorney General of Ontario, said: "The NRA has been agitating in Canadian political backrooms for years."

I am talking about an organization that paid and that is supporting a Canadian organization. I would like to remind my colleagues that when we talk about the environment it is a sin to talk about supporting a cause with money from the United States, but when it comes to the gun registry it is not a sin anymore and they do not consider that a barrier. I have not heard any of the Conservatives mentioning the fact that the NRA has been a big help in supporting the abolition of the gun registry.

We also have some other people who were in fact very much involved, and I am referring to the Conservative MP by the name of Garry Breitkreuz. I do not know him, but I know he was very supportive of and supported by the NRA. There is a direct link between the NRA and the Conservatives. I have ample evidence from all the reports that I could consult. There was also Candice Hoepfner, who attended the CSA 2010 annual meeting. She attended the meeting with the NRA, which means that you have people who were involved, who were supported and are part of it.

Another person who has worked very closely with the NRA is Gary Mauser, a retired marketing professor and a long-time active Conservative Party member and past director of the New Westminster-Coquitlam Conservative Riding Association. In 2006, Professor Mauser was chair of the party's nomination committee in the riding. He personally donated in excess of \$11,000 to the Conservative Party and its predecessor parties.

• (1520)

An opponent of the registry since inception, Professor Mauser has written extensively in support of arming for self-protection — it must be dangerous in that place — and his early research was partly funded by whom? The National Rifle Association. He is also a good friend of someone we know very well who is against the registry: Stockwell Day.

This is just to say that there is a direct connection between the NRA and the Conservative Party.

How sad it was to read that two days after the September 13 Dawson College shooting, Tony Bernardo was quoted as saying the Beretta CX4 Storm — the gun used in the rampage and which he also owned — was “a lot of fun to shoot.” This was two days after people were killed. I find it quite strange that one would think that person very normal.

I want to conclude on the NRA to say that they have established a foundation which is tax-exempt in the United States. Of course its activities are designed to promote firearms. Listen to their mission statement, which states:

... to educate the general public about firearms in their historic, technological and artistic context.

I would need to take a course to understand where they think there is some artistic context related to guns. As far as I am concerned, there may be some artistic context with guns that are in our museums, but as for the semi-automatic guns we are talking about here, I do not think there is anything artistic about them.

I have found more or less that this is all about money, business and lobbying. In the United States, year after year, \$15 million and more is given to candidates who support, of course, the position of putting fewer restraints on the use of firearms in the United States. As I mentioned, they are three times more likely than any other country in the world to own a gun.

I would certainly not fulfil my duty if I did not speak on behalf of my province.

[Translation]

I would like to remind you of what Quebec's public safety minister, Robert Dutil, said. We have often heard that the Harper Conservative government is a government that would work hand in hand with the provinces, that there would be no more scuffles, and that there would be ongoing consultation. So far, that type of consultation has been elusive.

Minister Dutil said that in Quebec, the firearms registry is consulted 700 times every day. Considering that there are 24 hours in a day that makes quite a few times per hour. The firearms registry is an essential tool in police work in Quebec. Enquire about it in your respective provinces.

The minister added that spousal abuse is a known problem that is known and deplored in Quebec. However, he noted that the registry contributes to preventing crimes against the person. Mr. Dutil mentioned that in Quebec, between 2006 and 2010, 264 spousal abuse incidents involving rifles and shotguns were documented. Statistics show that hunting guns were used more often than handguns in spousal abuse cases, obviously because it is much harder to procure a handgun. The statistics prove it. The number of homicides involving a rifle in cases of spousal abuse has decreased significantly.

[Senator Hervieux-Payette]

I want to shift to another serious matter related to the use of firearms, and that is suicide. Statistics from the Institut national de santé publique du Québec show that out of the 650 reported suicides committed with a firearm in Quebec over a period of four years, 565 were with an unrestricted firearm, a rifle or shotgun.

Thus, the firearms registry is a very important suicide prevention tool. The purpose of having unrestricted firearms registered is to make them less accessible to people who are likely to misuse them, such as people with depression. The registry also contributes to protecting people with mental illness and their loved ones.

Universal registration enables the chief firearms officer to determine whether the weapons are in the possession of people under an order that would confine them to an institution or require a psychiatric assessment. Under Anastasia's Law, the chief firearms officer is systematically informed of these applications. Between January 1, 2008 and November 1, 2011, 18,661 applications for orders were reported to him, and consultation of the registry made it possible to conduct over 1,000 interventions to ensure the safety of persons.

When someone in a couple or a family, whether it be a child or a spouse, is perturbed, has behaviour problems or suffers from a mental illness, the chief firearms officer can be called upon to intervene in order to ensure that the firearm is removed legally. The government does not intervene with the family; it is the family that asks for help from the government. Bill C-19 will prevent this type of intervention, and it is the federal government's responsibility to stay out of it.

The minister concluded by saying that, if the registration of non-restricted firearms were to save just one life, from a moral standpoint, its maintenance would be justified.

We know that the registry has saved many lives. As far as I am concerned, those who help to abolish the registry will certainly have the increased number of suicides and murders on their consciences.

I would like to close by looking at what the various police organizations in Quebec have to say. The Canadian Association of Chiefs of Police is clearly against the bill. The same is true in Quebec. We are often mocked by people who say that organized criminals do not register their weapons. No one ever thought they did. We have known for a very long time that there are places where firearms are crossing the border in both directions. That is the criminal world; the registry is for honest people.

Could I have five more minutes?

[English]

The Hon. the Speaker pro tempore: Honourable senators, is leave granted for an additional five minutes?

Some Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: The honourable senator has five more minutes.

[Translation]

Senator Hervieux-Payette: I would like to conclude with two messages I received from mental health workers. In one, the Association pour la santé publique du Québec says that there has been a significant decrease in the number of shooting deaths in Canada. The association strongly supports our position that this bill is completely useless and counter-productive.

However, what really struck a chord with me was a message from public health service directors from all regions of Quebec. I would like to read part of it. The doctors said:

In Canada, suicide is by far the leading cause of firearm-related death, representing 73 per cent of such deaths. In 2008, in at least 43 per cent of these cases, the weapon was an unrestricted firearm or a long gun.

• (1530)

In 2010, this class of weapons, which includes rifles and shotguns, represented 23 per cent of homicides committed with a firearm. It has been shown that firearm-related deaths generally involve people struggling with personal problems.

In closing, I would add that saving thousands of lives saves an estimated \$400 million per year, according to the Institut national de la santé publique in 2010. The operating costs associated with registering firearms are approximately \$9.1 million per year. That cost is minimal compared to the costs associated with firearms-related deaths and injuries, which were \$6.6 billion in 1991, or approximately \$9 billion in 2009 dollars.

Honourable senators, in order to avoid reading the names of all 298 organizations, I would like to table a document entitled "Canadian experts opposed to the abolition of the long gun registry, Bill C-391, 2009-2010." They have authorized me to share this list and I would rather not read it out in public. May I do so?

[English]

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators, for the tabling of this document?

Some Hon. Senators: Agreed.

Senator Carignan: No.

The Hon. the Speaker *pro tempore*: Leave is not granted.

[Translation]

Senator Hervieux-Payette: I would like to conclude simply by saying that, as a woman, a Quebecer and a Canadian, I was proud to support the firearms registry. I am not one of those people who said that it was perfect from the start. But the legislation accomplished what it set out to do: it made Canada one of the countries with an advanced system of justice. I believe it contributes to the protection of the fundamental right to life and security of all Canadians, as provided by Canada's Constitution.

This is in contrast to the American Constitution, which allows everyone to bear arms. Who protected the Americans when the North fought the South in the nineteenth century? I believe that in Canada there will be no battles between East and West, North and South or cities and rural areas. All Canadians must be protected and all Canadians have benefitted from the gun registry. I beg my colleagues to study the bill seriously and to reject it.

[English]

Hon. Mobina S. B. Jaffer: Honourable senators, as I rise today to speak at second reading of Bill C-19, An Act to amend the Criminal Code and the Firearms Act, I would like to take a moment to remind all honourable senators why this bill was initially introduced and reflect on the reasons why it is important that we as a country remain vigilant about gun control.

December 6, 1989, was an incredibly sad and horrific day in Canadian history. It was on this day that an enraged gunman armed with a .22 calibre rifle invaded the halls of Montreal's École Polytechnique on a mission to kill any woman in his path. For 45 minutes this man roamed through the corridors of the university yelling, "I want women; I want women" and "I hate feminists." Upon entering a classroom filled with 60 engineering students, the lone gunman separated the men from the women. After ensuring that all the men present had left the room, the gunman opened fire. He then stepped out of the classroom and went on another shooting rampage, this time in the hallways. Fourteen women died on this day in one of the largest attacks against women in Canadian history.

As parents grieved the loss of their daughters, as husbands mourned for their wives, women across the country worked hard to raise awareness surrounding all forms of violence against women.

[Translation]

What has come to be known as the École Polytechnique massacre elicited indignation across the country. Canadians from all provinces and territories joined forces and urged the Government of Canada to strengthen Canada's gun control system.

In response to the public protests, the government passed the Firearms Act in 1995 in order to strengthen gun control regulations.

Broadening the registration system to include previously unregulated firearms, such as rifles and long guns, was one of the main measures of this new legislation. Under the new act, .22 calibre rifles, such as the Ruger-Mini-14 used in the École Polytechnique massacre, were governed by regulations.

Many people who criticize the gun registry, including my esteemed colleague, Senator Lang, the sponsor of this bill in the Senate, have said that the registry discriminates against all those living in the North, for whom a long gun is a necessary tool in day-to-day life.

[English]

Honourable senators, from 1992 to 1994, I was appointed by Prime Minister Mulroney to be a member of the Canadian Panel on Violence Against Women. I along with eight other panel members visited communities across Canada, including those located in Northern and Western Canada, to study the causes of violence against women and make recommendations on how this violence could be prevented.

Our panel's first meeting took place in Montreal where we met with families of the 14 young women who lost their lives at the École Polytechnique massacre. The room was filled with grief and pain, and our panel found it extremely difficult to find words to convey our condolences for the senseless act. At this meeting, we heard from Ms. Suzanne Edward, who lost her daughter as a result of this massacre. It was here that Ms. Edward spoke about introducing a gun registry, which she hoped would help ensure that no other mother would have to endure the pain of losing their child to a long gun.

During our panel's study, we also learned that when it comes to domestic violence, a long gun is regarded as a weapon of choice. In fact, 75 per cent of the time a woman is murdered with a gun, she is killed with a long gun, not a handgun.

It is incredibly unfortunate that the debate surrounding the long-gun registry has been framed in a way that places Canadians living in rural areas of Canada against Canadians living in urban areas. The gun registry is not about taking away the rights of farmers and hunters; it is about providing a tool to the police that will help them protect women. Rates of death with guns are in fact higher in rural and northern areas. It is women living in rural areas who benefit from the added protection that the gun registry provides as it is these women who are disproportionately affected by domestic violence and spousal abuse.

The report that was the result of our panel's study, entitled *Changing the Landscape: Ending Violence — Achieving Equality*, profiles several women living in rural areas of Canada. One woman cited in this report made the following statement:

I hope that the hell is over. I live in a rural area with my two young children. The Ontario Provincial Police have told me that the fastest they can get to my house in an emergency is one hour. Between 2 a.m. and 6 a.m., there is no one available at all.

Honourable senators, given that women living in rural areas often live in isolation and experience challenges accessing safety mechanisms, it is increasingly difficult for them to leave violent situations.

• (1540)

In 1994, the same year the gun registry was introduced, a total of 91 women across Canada were killed by guns as a result of spousal abuse. In 2008, after the gun registry was in place, a total of nine women were killed as a result of spousal abuse.

[Senator Jaffer]

Every year in Canada, more than 100,000 women and children leave their homes to seek safety in a shelter. Gun violence is present in the majority of these cases, leaving women intimidated and vulnerable. In fact, research has indicated that rates of homicides in domestic violence situations increase significantly where there is a firearm in the home. Once again, long guns — not handguns — are the weapons of choice.

What puzzles me is that the control of guns is quite similar to the control of cars. Canadians must obtain a licence to drive and they must register their vehicles. Similarly, one needs to have a licence to own, borrow or obtain firearms. One must also register their firearms.

Honourable senators, we register our cars, we register our pets, we register our marriages, we register our births, we register our deaths, and we register our short guns. Why is it such a great inconvenience to register our long guns?

Today, I feel as though I am pushing a very large rock — one that is much bigger than myself — up a hill. I am aware that what I say today may not make any difference, as the fate of the gun registry has already been determined. I recognize that I may not change anyone's mind. Then I think of Jane.

Prior to my participation on the Canadian Panel on Violence Against Women from 1990 to 1992, I was the chair of the British Columbia Task Force on Family Violence and I produced a report entitled *Is Anyone Listening?*. I heard from a number of women who were victims of violence. One woman who stands out in my mind is Jane.

I met Jane when the Task Force on Family Violence was visiting a rural community in British Columbia. As soon as I saw Jane, I noticed that her face was severely disfigured. Jane explained to us what had happened to her and our task force listened helplessly with heavy hearts. She explained that her partner returned home one day extremely unhappy. Everything Jane did, he criticized: The children were too noisy, the house was too messy, the supper was too bland, and she was too ugly. Jane knew from experience it was best if she kept quiet and endure the emotional abuse. She knew by speaking up, matters would escalate.

Unfortunately, her daughter Elizabeth came to her mother's rescue and stood up to her father. Suddenly, Jane saw her husband pick up his long gun and aim it at her daughter. Jane panicked and quickly pushed her daughter to the ground, intercepting the bullet that struck Jane in the face. Jane's partner left that evening, never to be seen again.

It took an ambulance and police one hour to arrive, at which point Jane had already lost a lot of blood. Jane went through extensive treatment and several surgeries. However, she told our task force that, although her face might one day heal, her emotional wounds would be there forever. Her final words to us were that no woman should have to endure this kind of pain. "You are my last hope; do something to protect our children."

Since I met Jane, I have been working actively to help prevent violence against women. I have spent years working with organizations to establish the gun registry, and it pains me to

know that in the near future this registry is likely to be abolished. In the event this is the case, we will have let down Jane and thousands of women just like her living across Canada.

I am sorry, Jane.

[Translation]

Having worked very closely with many women who live in rural regions of Canada, I can confirm to all my honourable colleagues that spousal abuse is a very sad reality for many women in those regions.

Therefore, it is wrong to say that the firearms registry is simply a tool that oppresses Canadians who live in rural regions.

The firearms registry is a public safety tool that protects all Canadians, whether they live in a rural region or an urban centre.

Honourable senators, I have studied the previous versions of Bill C-19 closely and I have listened very carefully to the debate surrounding this issue.

[English]

I have read testimonials published by the Coalition for Gun Control made by a number of outraged women, who have spoken out against this particular piece of legislation, and I would like to share some of those words with honourable senators today.

Karen Vanscoy, a psychiatric nurse whose 14-year-old daughter Jasmine was shot and killed in St. Catharines, stated:

From the moment I learned that my daughter had died until now, I have been living with the devastating impact of gun violence. Nurses are on the front lines of dealing with gun violence in all its forms. I deal on a regular basis with people who are suicidal and I understand the importance of having controls in place to reduce suicide. Studies have shown that there have been 250 fewer suicides annually since the implementation of Canada's gun control laws. The proposed weakening to the licensing requirements will make it easier for suicidal people to acquire firearms. It is incomprehensible that on the same day MPs will vote for the Federal Framework for Suicide Prevention Act, they will be voting to end the long-gun registry.

Pamela Harrison, Coordinator of the Transition House Association of Nova Scotia, stated:

The divisiveness of the gun control issue is fueled by misinformation. Because of their relatively easy availability, so-called "hunting guns" — non-restricted rifles and shotguns — are the firearms most often used in domestic violence to threaten and intimidate women and children. Threats made with these guns are not counted in the statistics, but the damage they do is very real. Scrapping the long-gun registry will save the RCMP less than \$4 million per year but how much is it going to cost Canadians? The government has conservatively estimated the value of one lost human life at \$5 million.

[Translation]

Alexa Conradi, president of the Fédération des femmes du Québec, said:

The safety of women must prevail over simple administrative red tape.

Firearms are registered just once at no charge to the owner. The government's decision to destroy the existing data is a punitive measure that has absolutely nothing to do with privacy and everything to do with ideology.

[English]

May I have five more minutes, please?

The Hon. the Speaker *pro tempore*: Is leave granted for an additional five minutes?

Some Hon. Senators: Agreed.

[Translation]

Senator Jaffer: Taxpayers have made a considerable investment in the gathering of the data in this database, and the provinces should be able to recover it in order to ensure the safety of their communities.

Honourable senators, the voices of these women must not fall on deaf ears. Their concerns are real and demand our attention.

Last week, I heard a number of my colleagues draw attention to the cost of the firearms registry. Setting up the registry cost more than a billion dollars in 1995, but, today, administration of the firearms registry costs roughly \$4 million a year.

That might seem like a lot of money, but economic studies show that preventive interventions like the firearms registry, for preventing interpersonal violence, saves more than it costs.

[English]

Let me repeat that the cost of maintaining the gun registry is roughly \$4 million per year. In a 2008 report entitled *Costs of Crime* produced by the Department of Justice, the proposed value of a lost human life is \$5 million. Therefore, if the gun registry saves just one life, then the registry would save Canadians more money than it costs them.

• (1550)

Several of my colleagues have called into question the effectiveness of the gun registry, expressing concern that it is not a valuable public safety tool. I find this to be very interesting, considering that police officers have stated that they use the registry 16,000 times a day — 16,000 times every day — and that it is a valued public safety tool.

According to a 2010 program evaluation conducted by the RCMP Canadian Firearms Program, the firearms registry is cited as being a useful tool for law enforcement, providing officers safety, investigative support and public safety.

Honourable senators, as a member of the Standing Senate Committee on Legal and Constitutional Affairs, I closely studied Bill C-10, the proposed safe streets and communities act. Throughout our study, we heard on several occasions that we need to utilize whatever tools we have to ensure that our streets and communities are safe. Last Thursday, I heard many of my colleagues emphasize the importance of keeping our streets and our communities safe.

Saving the gun registry would do just this. It will keep our streets and our communities safer and, most important, it will protect women who are too often victims of gender-based violence.

The Coalition for Gun Control, which was founded in the wake of the Montreal Massacre, made an incredibly profound statement upon which I think we should reflect. They stated: "The gun registry never killed anyone. Ending it may."

Honourable senators, I urge you all to keep in mind the challenges that women across the country continue to face and the vulnerable positions they are too often placed in. Save the gun registry; save lives.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: It has been moved by Honourable Senator Lang, seconded by Honourable Senator Stewart Olsen, that Bill C-19, An Act to amend the Criminal Code and the Firearms Act, be now read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to, on division, and bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

[Translation]

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE TO EXAMINE GOVERNMENT LEGISLATION ADOPTED

Hon. Claude Carignan, pursuant to notice of March 6, 2012, moved:

That a special committee of the Senate be appointed to consider, after second reading, such Government legislation as may be referred to it during the current session, including

[Senator Jaffer]

Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act;

That, notwithstanding rule 85(1)(b), the special committee comprise nine members namely the Honourable Senators Andreychuk, Dagenais, Dallaire, Day, Frum, Joyal, P.C., Segal, Smith, P.C. (Cobourg), and Tkachuk, and that four members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, and to print such papers and evidence from day to day as may be ordered by the committee;

That, pursuant to rule 95(3)(a), the committee have power to sit from Monday to Friday, even though the Senate may then be adjourned for a period exceeding one week;

That the committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings; and

That the committee have power to retain the services of professional, clerical, stenographic and such other staff as deemed advisable by the committee.

(Motion agreed to.)

CRIMINAL CODE CANADA EVIDENCE ACT SECURITY OF INFORMATION ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Ogilvie, for the second reading of Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act.

Hon. Roméo Antonius Dallaire: Honourable senators, I rise today to speak on Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, known as the Combating Terrorism Act.

Senator Frum, the bill's sponsor, has already provided this chamber with a technical overview of the bill's contents and background. It is a piece of legislation with which many of us are familiar, as it was introduced in the three previous parliamentary sessions. Senator Frum provided a good description of the bill's history in her speech.

[English]

My objective today is to outline a number of concerns I have with this bill, including highlighting a number of unfulfilled recommendations, questioning the necessity of this bill and analyzing Bill S-7's impact on youth.

I am also rising to encourage the soon-to-be-struck Special Senate Committee on Anti-terrorism to study its provisions and implications assiduously, in great detail and with the time required to do a thorough job, as new information has been brought to this legislation.

When this legislation was drafted, the Minister of Justice stated in his department's press release that "terrorism will continue to be a threat for the foreseeable future." He is correct. The nature of conflict in our era has changed. Conventional conflict and warfare are things of the past. Terrorism will continue to play a role in conflict in the future.

There exists in the world international law, of which the spirit of the law is based on the practitioners of war, *hors de combat*, and the world at large is required to respect these laws. The written obligations are found in the Law of The Hague, the Law of Geneva, the Genocide convention of 1948, the Charter of the United Nations, the International Criminal Court and the International War Crimes Tribunals.

We are in an era not of conventional warfare such as we have known for decades through the Cold War and previously in classic wars such as World War II, but we have entered a new era where we are in not war, nor in a state of peace in the classic sense of peacekeeping, but we are in everything in between — that is to say, from Haiti to Afghanistan and, God knows, potentially, Iran.

In those contexts of conflict, what has come to the fore is the fact that the threat or the opposition is not a nation state as such nor even a structured force; on the contrary, it is often an out-of-force, out-of-government structure, or in fact a completely rebel or terrorist structure. These unconventional forces do not respect any of the laws or conventions that I described by name earlier. We are in an era where the opposition does not play by any of the rules.

The question is, will we, in order to guarantee our security, go down a similar route? That is to say, will we continue to play by the rules and guarantee our success within that context, which includes human rights, rights of the individual, humanitarian law, civil liberties and, of course, the international conventions, or will we in fact move, as we have tended to move after 9/11, down a track that would fiddle with these fundamental laws? Would we fiddle with our civil liberties by introducing legislation that would amend and curtail them? Would we fiddle with international human rights by permitting things like torture in order to establish sources of information? Would we even fiddle with the international conventions, such as the Geneva Convention, by creating and supporting entities like Guantanamo Bay?

The answer is no, we are not wanting to go down that route, and far be it from us to establish our security by going down that route. On the contrary, what we are looking for is how we can guarantee the security, all the while not putting at risk any of those fundamental laws and precepts that have taken, not decades, but centuries to build.

• (1600)

This law, this anti-terrorism legislation, is within that realm of debate of whether or not we are responding to the needs of our security or whether we are overstepping our bounds and simply

lacking imagination in trying to achieve that. The debate is worthy of us. The debate is essential. It must be debated and discussed and brought to the fore of chambers like ours so that the legislation does not impede on the civil liberties of the individual for the security of the group, but, on the contrary, that we guarantee that balance.

As we recognize that domestic and international terrorism is unfortunately part of the reality we live in, we must also recognize that we cannot continue to rely on extraordinary temporary measures to combat a long-term reality, but a reality of our era into which we have stumbled, and not that we have predicted, nor have we been particularly innovative in bringing proactive anticipatory solutions to prevent conflict, prevent mass atrocities and, in fact, prevent the rage that has turned into this spiraling terrorism or extremism.

[Translation]

In order to properly debate the merits of this bill, we need to understand why this bill has been deemed necessary. The first step in any operation is to analyze the intelligence we have gathered on the particular threat. After my honourable colleague's speech on the bill, I asked her if she had had access to the classified threat assessments, on which, presumably, this legislation is based. She answered that she did not, and that "as a regular citizen reading the newspaper, [she is] aware everyday that somewhere in this world there are terrorist activities that are going on and there is no reason to assume that Canada will be exempt from these." I believe this argument has some merit.

Rage exists in the world as a result of poverty, the refusal to share rights and the extremism imposed by dictators in developing countries. I agree, as I am sure everyone here does, that it would be irresponsible to assume that Canada will not be threatened by terrorism.

[English]

Although, if one looks at an American Weathermen's map, we can maybe think that people would not consider us a target. Why? There is nothing north of the United States on an American Weathermen's map. We might get away with the principle that we have had for so long that no one would really want to attack us. As we build our infrastructure in this country based on that fact, we find ourselves deficient significantly in fundamental protection of critical resources that are essential to the evolution of our country.

While commanding the Quebec Region and visiting all the hydro capabilities of that province, it was evident that we did not even have octogenarian Commissionaires or World War II veterans guarding the massive hydroelectric places and, in so doing, the vulnerability of those installations was blatant.

[Translation]

We will not necessarily be protected by the fact that we are not one of the prime targets of terrorism. However, when it comes to legislating in the name of national security, newspaper reports are not an adequate basis on which to make major decisions regarding the position in which we find ourselves. Nor is it

enough for the government to merely tell us that we need extreme measures, such as an investigative hearing or recognizance with conditions, in order to guarantee our security. As parliamentarians, we must be able to anticipate the threat in order to determine whether this bill is not only necessary but essential to our country's security.

[English]

We, as parliamentarians, need to be able to assess the security threats at a higher level. Currently, we are absolutely blind and even deaf to these threats. This makes it difficult to gauge the actual necessity of Bill S-7. That is why I am calling for the creation of a national security and intelligence committee of parliamentarians: to be considered within the context — seriously within the context — of the essentiality of this legislation. Such a committee was proposed in 2005 in Bill C-81. This proposal was put forth a second time in 2007, in this era where we feel the essentiality of increasing the capabilities of our security forces in order to guarantee our security.

The House of Commons Subcommittee on the Review of the Anti-terrorism Act in recommendations 58, 59 and 60, in the report *Rights, Limits, Security: A Comprehensive Review of the Anti-terrorism Act and Related Issues* in fact acquiesced to that requirement of establishing a national security and intelligence committee of parliamentarians to have parliamentary oversight on the whole structure of intelligence gathering and the security of our nation. Recommendation 58, in particular, states:

The Subcommittee recommends that Bill C-81 from the 38th Parliament, the proposed National Security Committee of Parliamentarians Act, or a variation of it, be introduced in Parliament at the earliest opportunity.

Honourable senators, let us take this opportunity to bring it forward with the advancement of this bill. A national security and intelligence committee would be composed of a select number of parliamentarians, both government and opposition, from both chambers. They would be sworn to secrecy and this oath would provide them access to confidential and sensitive information relating to Canada's national security situation and to provide intelligence oversight. Such a committee has existed in the United Kingdom since 1994 and in the United States Senate since 1976.

As a serving general officer, the security access I had at that time is at least 100 times more than what I have to work with in the Senate and on committee. It does not make any sense that parliamentarians — at least some of them — do not have a possibility of oversight into classified material that is based on the essentiality of security of our nation, for which we are responsible for introducing the legislation to guarantee that and putting it into law.

In 2005, a multi-party consensus emerged in support of providing parliamentarians and Parliament with an important means for overseeing the Canadian security and intelligence community. It is time that we take up this matter once again and give serious consideration to this proposal as we work our way,

particularly in committee, with advancing the essentiality — I argue the “essentiality” and not the “necessity” — of this legislation in Bill S-7.

[Translation]

Again, without such an infrastructure, it is difficult to assess the necessity or essentiality of the current bill. Why are the measures included in the Criminal Code not enough to prevent the threat of terrorism? In recent cases, including those of the Toronto 18, Mohammad Momin Khawaja and Saïd Namouh, and in the current case of Mohamed Hassan, it has not been necessary to resort to investigative hearings, recognizance with conditions or extraordinary measures to prevent acts of terrorism and prosecute people. The charges were laid under the provisions of the Criminal Code.

Finally, even before they sunsetted, the previous provisions had never been used. When a threat surfaced in Canada, on four occasions, we were able to intervene proactively. In fact, we are currently prosecuting the individuals involved under the existing provisions of the Criminal Code.

• (1610)

It has been argued that, even though these provisions were not used between 2001 and 2007, this does not mean they will never be necessary. I can understand that logic. We hope and suppose that if we had used them, it would have been in very rare cases. However, let us not forget that investigative hearings and recognizance with conditions were meant only to be extraordinary measures.

Such powers cannot be a long-term solution to the fight against terrorism. The balance between civil liberties, respect for privacy and national security is too delicate. In any case, there is some doubt about the need to fill a legal void. That case has not been made. When these extraordinary powers and instruments were demanded, the threat was not defined. Without the possibility to assess the threats to security, I find that, as a senator and parliamentarian, I can only ask for proof that these measures are not only necessary, but essential. Perhaps the committee can demonstrate that it is indeed the case. But until then, I will have my doubts and I will continue to do so until that proof is well established by the committee which, I hope, will work diligently and thoroughly.

[English]

Preventing terrorism has to be about more than the possible power of preventative detention. I see that some efforts are being made in this regard, as described in the government counterterrorism strategy published in February, entitled *Building Resilience Against Terrorism*. Well done to them for having produced it and for its outstanding title.

“Building resilience” means we want to also be proactive, anticipatory. We want to prevent these acts of terrorism. This, as I stated last week in response to the introduction of this bill, falls very much in line with the new concept in police operations called intelligence-based policing, in which police seek to prevent crimes from happening and, in so doing, to be far more effective in preventing casualties and people's suffering because of that.

However, I would like to expand upon this further and discuss the linkages between anti-terrorism policies and youth. We know that terrorist groups such as al-Shabab, which means “youth,” are recruiting Canadian youth to join their ranks. Senator Jaffer has had the opportunity to encounter such youth en route to Somalia, in her travels to Kenya. I, in the work that I am doing in my research on child soldiers, have discovered that children are being recruited to be child pirates. In fact, the bulk of the pirates, in the places where our forces are deployed right now to protect against them, are youth under the age of 18.

In a question last week, Senator Jaffer said:

I have asked them why they would leave our great country and do what they are doing. One of the things they said was that they have not felt included in our great country's fabric.

They have “not felt included in our great country's fabric.” That is not a legal problem; that is a social problem; that is a multi-ethnicity problem. That is the nature of the fabric of us being able to inculcate our values and our beliefs in people in order to stabilize them and introduce them to a better life in this extraordinary country of ours.

Honourable senators, I have long believed that disenfranchised youth, especially from Canada's Aboriginal and immigrant populations, can grow to present a national security threat. I have argued that in the Aboriginal Peoples Committee and, in fact, it was taken up not long ago in the media. It is, potentially, a growing threat. We see now, with Canadians among the ranks of Somalia's al-Shabab, that they might present a global security threat. We are actually introducing new recruits to the terrorism entities that are out there. Whether they threaten our country or simply the international community, that can have an impact on our interests by affecting business and access to precious metals, and even by creating instability in those countries and refugees and pandemics coming from those great internally displaced camps and refugee camps. This could even influence our diasporas in our country. This is unacceptable. This is bigger than law. This is the way we actually keep this country as a cohesive entity in order to continue to thrive into the future and not just survive.

The question is, are we introducing legislation to survive, or are we bringing about legislation and other programs in which we will be able to thrive and to maximize these youth to their full potential?

I am concerned about the prosecution of youth under Bill S-7. Bill S-7 provides no age limit for its provisions. It is not clear to me, nor clearly articulated anywhere, how the Youth Criminal Justice Act would interact with the bill before us. I understand that Bill S-7 is not meant to be an exception to the Youth Criminal Justice Act. However, there is sufficient nebulous articulation around the crime of terrorism, particularly in regard to the new offences created in this legislation, to raise a red flag for me and for us when we want to guarantee that even the youth are allowed protection and their civil liberties, of course.

If we do not clarify the distinction between adult and youth in the context of this bill, then we run the risk of creating another situation like Omar Khadr's, which has been embarrassing for

Canada and quite troublesome for our legal system. It is still hanging out there.

I have explained that the nature of conflict in our era is no longer conventional. We know that the majority of modern armed conflicts are internal and often involve multiple armed groups that frequently recruit children. We are in an era of imploding nations and failing states where we see, through revolutions or non-state actors, crises that turn into conflicts that create not only victims but also extremism. That then interprets itself into terrorism beyond the borders of those countries that are failing. Some of these armed groups can resort, of course, to the terrorist tactics that we are concerned about and that we have seen over the last couple decades.

Canada is a signatory to the Convention on the Rights of the Child and its optional protocol on children in armed conflict. We led the charge. Those who supported us the most were the Americans. Both of us led the charge on the optional protocol on child rights which clearly defines child soldiers and youth in conflict. The optional protocol prohibits armed groups from recruiting children. It also calls on state parties to prevent such recruitment and use through all feasible measures, including through legal measures such as criminalization. Bill S-7 does not criminalize the recruitment of child soldiers, but it does criminalize the act of leaving or attempting to leave Canada to participate in a terrorist activity. This is a whole new angle to this legislation that has never been introduced previously and it is worthy of particular attention and study.

I am concerned about the definition of terrorist activity in this regard. If Canadian children are being recruited abroad to join rebel forces or state or non-state armed groups, could these activities be cast in the light of terrorism and prosecuted as such?

The optional protocol defines child soldiers as “any person under 18 years of age” and speaks of “compulsorily, forcibly, or voluntarily,” although “voluntarily” in a theatre of conflict really does not exist. I remember clearly, in my command during the war, when there was fraternization that I completely condemned. I condemned fraternization because there is no such thing as people falling in love in a theatre of conflict. The women who had fallen into the hands of those soldiers who were present were there because they needed protection. They may need money and food for their families; they are not participating voluntarily as adults in such acts.

• (1620)

The optional protocol says:

... or voluntarily recruited or used in hostilities by any kind of armed forces or groups in any capacity, including but not limited to soldiers, cooks, porters, messengers and those accompanying such groups. It includes girls recruited for sexual purposes and forced marriage. It does not, therefore, refer exclusively to a child who is carrying or has carried arms or weapons.

This definition, to me, opens the possibility for youth recruited into terrorist activities to be considered child soldiers. The potential of that deduction and analysis is there. We have to examine what this means within the context of Canada's legal system and obligations under international law. The optional

protocol contains no provision that sanctions liability or holds child soldiers accountable for their engagement in hostilities. It seems, however, that Bill S-7 has the potential to do just that even before they get there. We would then be able to prosecute them.

Our laws are framed with adult sanctioning in mind and not necessarily relevant or appropriate sanctioning for children, whose culpabilities and physical and mental states are not that of adults. The optional protocol does require state parties to cooperate and assist in the demobilization, the rehabilitation and the reintegration of child soldiers. Hence, in the absence of criminal liability, the protocol does emphasize the special status of children and recognizes them as victims in need of rehabilitation. We signed it. We produced it. We led the charge for it. I now believe it is being tested once again with this proposed legislation.

Jailing youth may not always be the answer. Ensuring that they are fully integrated and availed of all the educational and economic opportunities Canada has to offer is fundamental to responding to and preventing youth radicalization. We believe this government has also articulated that we want to leave none behind.

The distinction between child soldier and terrorist remains unclear. I look forward to clarifying this matter in committee and ensuring that this bill is consistent with Canada's domestic legal instruments and our international treaty obligations or conventions that we have signed and that we have written and brought the world on board to agree to.

[Translation]

And while attempts may be made to expedite passage of this bill based on considerations from previous parliamentary sessions, that is, from previous incarnations of the bill, I would remind honourable senators that this bill introduces brand-new provisions that I talked about but that have never been introduced in previous incarnations of this legislation. These provisions include the recruitment of individuals who are deployed or who voluntarily or involuntarily find themselves involved in so-called terrorist organizations for training and even jobs.

Bill S-7 proposes new terrorism offences prohibiting individuals from leaving or attempting to leave Canada for the purpose of committing certain terrorism offences. Clauses 6, 7 and 8 of the bill must be studied particularly closely and with due diligence to clarify this situation so that we do not violate other rights or other conventions that we have agreed to participate in or even helped draft and that have been passed by the United Nations and member countries.

Given that committee is the place to conduct an in-depth analysis of legislation, I would like to highlight for my colleagues a number of additional concerns that I have that I would like to be discussed and studied. In addition to requiring evidence on the necessity of the bill, the bill's impact on youth, and the creation of a national security and intelligence committee, further discussion is required and must be pursued.

Other aspects must be examined, like the parliamentary review of anti-terrorism legislation, the need for a special algorithm, which could serve as an intermediary if ever we wanted not to give

parliamentarians access to security documents. We could have this intermediary body between the judge and the individual in question, to have access to security information and serve as an intermediary to give the individual recourse to a body that would do an independent analysis of the security information that the individual could be accused of holding.

This does not exist, because the government is not obliged to provide the classified information used to apprehend the individual, under this legislation, to seek the information and, eventually, pursue criminal proceedings against this person for terrorism.

Now, I would like to speak about some other concerns, including racial profiling and the use of information obtained through torture. Racial profiling has been a consideration each time this bill has been introduced. This new dimension was mentioned by the safety minister as it pertains to torture, which is a fundamental affront to human and individual rights.

If Canada is prepared to receive information obtained through torture, which goes against a convention we have signed, we must conduct a more detailed analysis of the impact of this source of information and the need to use it, and even of the basic legality of our country's actions if, one day, we should be called to appear before the Supreme Court of Canada to determine whether it was legal to acquire the information in question through torture.

Finally, I would like to speak about the primary importance of the threat of terrorism compared to other factors that must still be considered essential needs.

I am repeating myself but, so far, we have not needed to use anything this extraordinary to prevent the four terrorism scenarios attempted in our country since 2001.

[English]

I look forward to working with Senator Frum and honourable senators on both sides of the chamber on this matter, in particular in committee. The dynamic committee, I am sure, will be looking at all of the nuances of this significant piece of proposed legislation, which is essential to our security and to ensuring Canada's national security through thoughtful, balanced and necessary measures.

Honourable senators, I recommend that we move this potential legislation to committee so that we can proceed with the essential work of dissecting it and proving that it is essential to our needs and that it will protect the rights of the individual for the security of the whole.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: It has been moved by the Honourable Senator Frum, seconded by the Honourable Senator Ogilvie, that Bill S-7, an Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, be now read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to, on division, and bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Frum, bill referred to the Special Senate Committee on Certain Government Bills, on division.)

• (1630)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Committee on Internal Economy, Budgets and Administration (*Senate budget for 2012-2013*), presented in the Senate on February 29, 2012.

Hon. David Tkachuk moved the adoption of the report.

He said: Honourable senators, as Chair of the Standing Committee on Internal Economy, Budgets and Administration, I am pleased to present you with the Senate's Main Estimates for 2012-13. We had planned to do this today, and I know our deputy chair is not here, but I believe he has a great stand-in to offer his comments. The budget amounts to \$92,215,846, which represents a decrease of \$1,740,336 or minus 1.85 per cent over the 2011-12 Main Estimates.

While Parliament was not obligated to cut costs under the federal government's Strategic and Operating Review, we felt it necessary for the Senate to do its part, and no programs or expenditures were spared when doing our review. Senators' offices and Senate administration were given the mandate to streamline operations and realign activities. The Senate is continuously striving for greater fiscal responsibility and accountability.

It affected a number of items. It affected sort of the total research and office expense budget, but not individual senators; it affected miscellaneous office expenditures, account budgets for senators, caucus budgets, political officers' budgets, committee budgets, inter-parliamentary and affairs budgets and the Senate administration budget.

This process was started last spring, honourable senators. It was a joint effort by both sides. Senator Furey, I and the clerk started a work plan last spring, well before most other departments were doing their bit. We had a plan and we stuck to it. We rarely had too many disagreements, either in steering committee or as a committee ourselves. This budget was passed unanimously in the Internal Economy Committee by both sides.

I would like to take this opportunity to thank my fellow members of the committee, the administration and senators' staff for their hard work in complex and challenging times. I urge all honourable senators to adopt the report.

Hon. Jim Munson: Honourable senators, I have a 30-minute speech. Oh, that is the wrong one! George Baker, where are you when we need you?

Honourable senators, on behalf of the Deputy Chair of the Standing Committee on Internal Economy, Budgets and Administration, I too am pleased that the Senate's Main Estimates for 2012-13 have been tabled for acceptance. The work that was put in to the preparation of this report was long and comprehensive. I would like to thank Senators Tkachuk and Stewart Olsen for their prudence, effort and contribution. It was not always easy making sure that reductions were made while at the same time ensuring proper services are provided to senators to help them accomplish their parliamentary work; it is quite a task.

I would also like to thank our clerk, Dr. O'Brien; the director of finance, Nicole Proulx, and her staff; and all of the senior managers who contributed to the presentation of this budget. There are still a few years ahead that will provide us with challenges, but I am confident that we can meet these challenges. I ask colleagues on both sides to support the adoption of this report.

The Hon. the Speaker pro tempore: It has been moved and seconded that this report be adopted.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO STUDY LOBSTER FISHERY IN ATLANTIC CANADA AND QUEBEC

Hon. Fabian Manning, pursuant to notice of March 7, 2012, moved:

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on the lobster fishery in Atlantic Canada and Quebec;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the Second Session of the Fortieth Parliament be referred to the committee; and

That the committee report from time to time to the Senate but no later than March 31, 2013, and that the committee retain all powers necessary to publicize its findings until June 30, 2013.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

[Translation]

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, March 13, 2012, at 2 p.m.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, March 13, 2012, at 2 p.m.)

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• VOLUME 148

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OFFICIAL REPORT
(HANSARD)

Tuesday, March 13, 2012



The Honourable NOËL A. KINSELLA
Speaker

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, March 13, 2012

The Senate met at 2 p.m., the Speaker in the chair.

[English]

Prayers.

The study was conducted by Ryerson University's Diversity Institute and its findings were published on March 8 in honour of International Women's Day.

SENATORS' STATEMENTS

OUTSTANDING YOUNG FARMERS OF CANADA

CONGRATULATIONS TO ATLANTIC REGION WINNERS MR. AND MRS. MARK AND SALLY BERNARD

Hon. Elizabeth Hubley: Honourable senators, it is my pleasure to rise today to recognize and congratulate the 2012 Atlantic Outstanding Young Farmers, Mark and Sally Bernard of Freetown, Prince Edward Island.

The Outstanding Young Farmers Program is a national annual award that recognizes farmers exemplifying excellence in their profession and promoting the contribution of agriculture. As this year's Atlantic regional winners, Mark and Sally Bernard will compete for the national award to be held this November in Charlottetown.

The Bernards own and operate Barnyard Organics, an organic, self-sustaining mixed farm that combines the best of traditional farming methods with the latest technology. Their business model has so far proven very successful, and they have managed to grow and diversify.

Mark and Sally and their children are exactly the kind of passionate and entrepreneurial young farmers who are having a positive impact not only on the agricultural industry of P.E.I., but also in their local community. Both are involved with the Summerside Presbyterian Church and Sally sits on a number of boards, including the executive of the board for the Atlantic Canadian Organic Regional Network.

I invite all honourable senators to join me in congratulating the Bernards on their wonderful achievement and to wish them the best as they compete at the national level later this year.

[Translation]

VISIBLE MINORITY WOMEN IN SENIOR MANAGEMENT POSITIONS IN TORONTO

Hon. Donald H. Oliver: Honourable senators, today I wish to draw your attention to the results of a recent study on the number of visible minority women occupying senior management positions in the Greater Toronto Area. The results show that they are seriously under-represented.

The report, entitled *Women in Senior Leadership Positions: A Profile of the Greater Toronto Area*, measured the representation of women, including visible minorities, in leadership positions in seven sectors, including elected and public office.

The study is based on data collected in 5,081 senior leadership roles in the GTA. The results show us that women account for 51.3 per cent of residents in the GTA, but occupy only 28 per cent of these more than 5,000 positions.

Honourable senators, I am concerned about the neglect of our visible minority women. The statistics are even more troubling when looking at the representation of female visible minorities. They account for only 2.6 per cent of all leaders in the GTA. This means that there are only 131 visible minority women in senior positions in the GTA. Meanwhile, they represent more than 25 per cent of the overall population. What is worse, they represent less than 1 per cent of corporate sector leaders and only 6.6 per cent of elected officials.

Honourable senators, Canada's banks are leading the way around the world. Why are our financial institutions and corporations not fully representative of Canada's cultural mosaic? Why are women of Indian, African, and Asian descent not sitting on more boards and occupying more corner offices on Bay Street? I may not have the answer to these questions, but what I do know is that our major Canadian corporations need to be more proactive in finding ways to increase the representation of female visible minorities.

There are hundreds of highly qualified visible minority women who deserve equal opportunities. Organizations need to find ways to recruit within this vast pool of talent and to promote more visible minorities to senior and executive positions.

The Royal Bank of Canada, Canada's largest bank, understands the business case for diversity. In 2010, it received the prestigious Catalyst Award for Diversity because of its exceptional track record for diversity and inclusion practices. Gordon Nixon, RBC CEO, acknowledges that his diverse workforce makes his company better because it can effectively serve its diverse clients and recruit the best talent.

Women represent 67 per cent of RBC's workforce, 54 per cent of its management and 37 per cent of its executives. Visible minority women in management positions account for 28 per cent and 14 per cent of its executive roles. The Royal Bank is on the right track.

Honourable senators, in conclusion, the results published by Ryerson University's Diversity Institute confirm what I have always argued: Visible minorities are under-represented in senior management and executive positions.

Please join me, honourable senators, in helping both women and particularly visible minority women shatter the glass ceiling, and encourage Canada's leading corporations to accept and promote diversity and inclusion at all levels.

[Translation]

INTERNATIONAL DAY OF LA FRANCOPHONIE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, on Tuesday, March 20, francophones in over 50 countries where French is spoken will celebrate International Day of La Francophonie.

It is interesting to note that the official celebration of la Francophonie will be held in Trafalgar Square in London, where a series of concerts featuring francophone artists will be held. The shows will be part of the festivities surrounding the Olympic and Paralympic Games taking place in London this summer. Michaëlle Jean, Canada's former Governor General, will attend the celebration in her capacity as Grand Témoin de la Francophonie for the London 2012 Olympic Games.

The Rendez-vous de la Francophonie, our own national celebration of French language and culture, will take place from March 9 to 25. This year's theme is "Understanding builds a better future." Across Canada, various events including flag-raising ceremonies, shows, concerts and educational activities will attract many francophones and francophiles who care about promoting French-language culture.

In my province of Alberta, 23 communities raised the Franco-Albertan flag on March 2 to kick off the Rendez-vous de la Francophonie. The flag's design was selected for its power to bring people together. Edmonton's mayor, Stephen Mandell, took the opportunity to salute the francophone community's significant efforts to preserve its history and language and the integrity of French-Canadian culture across the country. He said that the community is doing an outstanding job.

• (1410)

Honourables senators, Canada's Francophonie represents an invaluable quality and asset that distinguish us around the world. We must always focus on strengthening and enhancing relationships between our francophone communities in order to promote French in the business world, across the digital universe and in our international exchanges.

According to the Secretary General of La Francophonie, Abdou Diouf, francophones in Canada, who are surrounded by a nearly entirely anglophone majority, provide the heartbeat of the global Francophonie. The unique situation of Canada's francophones and their unwavering determination to defend the French language are extremely motivational to francophones around the globe.

[Senator Oliver]

I hope our elected officials never stop recognizing their responsibilities towards francophone communities to assert and demonstrate their leadership, while developing and implementing policies that show respect for our language rights.

I wish to pay tribute to everyone who works on promoting and enhancing la Francophonie, while keeping the French language alive and flourishing. We must demonstrate our attachment to la Francophonie by celebrating its wealth and diversity.

[English]

THE HONOURABLE SALMA ATAULLAHJAN

CONGRATULATIONS ON WINNING 2012 WONDER WOMEN OF THE YEAR AWARD

Hon. Yonah Martin: Honourable senators, in light of last week's International Women's Day, I rise today to celebrate the achievement of one of our own formidable women, Senator Salma Ataullahjan. On March 8, International Women's Day, Senator Ataullahjan received a Wonder Women of the Year Award on behalf of the National Hero Foundation, a non-profit organization ordained by the government of Pakistan.

Some Hon. Senators: Hear, hear.

Senator Martin: With more than 300 nominations in 19 countries, Senator Salma Ataullahjan was named as one of Pakistan's top 23 inspirational women, receiving her award under the title of Women's Icon. Past recipients of this award include the late Benazir Bhutto.

[Translation]

Senator Ataullahjan has been recognized as a remarkable Pakistani living overseas, given her distinction as the first Canadian senator of Pakistani descent and for her dedicated service to the Pakistani-Canadian community. She compassionately defends Pakistan and does everything she can to strengthen Canada's relations with Pakistan, particularly during difficult times.

[English]

Senator Ataullahjan has met with internally displaced persons in the Swat Valley, has participated in flood relief efforts here in Canada, and has personally visited flood-damaged regions in Pakistan. A natural consensus builder, she has also been an active participant in several community-based associations in the GTA, including as a long-time member of the Canadian chapter of The Citizens Foundation, an international organization that has built and funded over 730 schools for Pakistan's poorest children.

I also know that as a working mother of two beautiful daughters and as a wife, a sister, a friend to many and as a representative of the Pakistani-Canadian community, she also does work nationally and internationally. She is most deserving of this award.

[Translation]

Honourable senators, I am also happy to tell you that Senator Ataullahjan was one of three Pakistani-Canadian women honoured as the most distinguished women from Pakistan. Oscar winner Sharmeen Obaid Chinoy and medical pioneer Dr. Shahnaz Dar were also honoured at the Wonder Women of the Year Awards last week.

[English]

Honourable senators, I am sure we can all agree that it is wonderful to see such accomplished Canadian women recognized on the world stage. I hope honourable senators will join me in congratulating Senator Ataullahjan and the award winners on this prestigious honour.

My dear colleague and friend, we are so proud of you.

THE LATE HERBERT H. CARNEGIE, C.M., O. ONT.

Hon. Don Meredith: Honourable senators, on Friday, March 9, 2012, Canada and the world lost a great hero with the unfortunate passing of Dr. Herbert H. Carnegie.

As honourable senators may remember, last November I made a statement in this place in celebration of Dr. Carnegie's 92nd birthday, making mention of his many contributions to Canadian society. I noted that Dr. Carnegie made history in 1948 as the first Black person to be offered an NHL minor-league contract to play for the New York Rangers. Unfortunately, he was forced to decline due to family and financial obligations. Nevertheless, he paved the way for future Black hockey players, including his grandson, Rane Carnegie, who played in the Ontario Hockey League, the American Hockey League, and overseas in France.

Off the ice, Dr. Carnegie would have a greater reach, inspiring the next generation by founding the Future Aces Hockey School, one of the first hockey schools in Canada, and the Herbert H. Carnegie Future Aces Foundation. He penned the popular Future Aces Creed designed to help youth develop self-knowledge and self-confidence. This creed has been embraced by many schools in Ontario and beyond.

Dr. Carnegie was named to the Order of Ontario in 1996 and to the Order of Canada in 2003. He received an Honorary Doctor of Laws degree from York University for his work as a community leader.

In the fall of 2008, I attended the opening of the school named in his honour — Herbert H. Carnegie Public School — in Maple, Ontario, where I had the opportunity to personally spend time with this iconic figure.

He was a kind and warm Canadian, loved by the world over. As the first Jamaican to be appointed to this place, I am especially proud of Dr. Carnegie as a man of Jamaican heritage. He was able to turn his adversities into opportunities and he is an inspiration for young people experiencing similar challenges today.

On May 5 last year, I hosted a group of grade 8 students from Herbert H. Carnegie Public School in the Senate as they visited Parliament Hill. My wife, Michelle, a teacher at the school, knows he will be missed by both students and teachers, as the school is in mourning.

I would like to express my heartfelt condolences to the family of this Canadian legend, including his children Goldie, Bernice, Rochelle and Dale; his nine grandchildren; and seven great-grandchildren. May they find comfort knowing that Dr. Carnegie's dream will continue to be fulfilled for years to come as our youth strive to be the best they can be through the Future Aces Foundation and creed.

Please join me, honourable senators, in remembering a great Canadian who has left his fingerprint on the next generation of our youth and athletes of colour. May his legacy of positive attitude, confidence, education and service continue to shape the next generation of young leaders across this great country.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before calling for Tabling of Documents, I wish to draw your attention to the presence in the gallery of Ms. Madge Munday, the recipient of the National Association of Career Colleges Graduate of the Year Award. She is accompanied by the chair of the association, Dr. Michael McAllister, and other members of the board of the association.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

FIRST NATIONS ELECTIONS BILL

FOURTH REPORT OF ABORIGINAL PEOPLES COMMITTEE PRESENTED

Hon. Gerry St. Germain, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, March 13, 2012

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

FOURTH REPORT

Your committee, to which was referred Bill S-6, An Act respecting the election and term of office of chiefs and councillors of certain First Nations and the composition of council of those First Nations, has, in obedience to the order of reference of Thursday, February 2, 2012, examined the said Bill and now reports the same without amendment.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

GERRY ST. GERMAIN,
Chair

(For text of observations, see today's Journals of the Senate, Appendix, p. 960.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator St. Germain, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

• (1420)

[Translation]

STUDY ON AIR CANADA'S OBLIGATIONS UNDER THE OFFICIAL LANGUAGES ACT

THIRD REPORT OF OFFICIAL LANGUAGES COMMITTEE TABLED

Hon. Maria Chaput: Honourable senators, I have the honour to table, in both official languages, the final report on Air Canada's obligations under the Official Languages Act, entitled *Air Canada's Obligations under the Official Languages Act: Towards Substantive Equality*.

(On motion of Senator Chaput, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[English]

PURPLE DAY BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-278, An Act respecting a day to increase public awareness about epilepsy.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Mercer, bill placed on the Orders of the Day for second reading two days hence.)

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. John D. Wallace: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

[Senator St. Germain]

That, on Thursday March 15, 2012 and on Thursday March 29, 2012, for the purposes of its consideration of Bill C-19, An Act to amend the Criminal Code and the Firearms Act, the Standing Senate Committee on Legal and Constitutional Affairs have the power to sit even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY ISSUES PERTAINING TO HUMAN RIGHTS OF FIRST NATIONS BAND MEMBERS WHO RESIDE OFF-RESERVE

Hon. Patrick Brazeau: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Human Rights be authorized to examine and report on issues pertaining to the human rights of First Nations band members who reside off-reserve, with an emphasis on the current federal policy framework. In particular, the committee will examine:

- (a) Rights relating to residency;
- (b) Access to rights;
- (c) Participation in community-based decision-making processes;
- (d) Portability of rights;
- (e) Existing Remedies; and

That the committee submit its final report no later than February 28, 2013 and that the committee retain all powers necessary to publicize its findings until 30 days after the tabling of the final report.

[Translation]

QUESTION PERIOD

JUSTICE

APPOINTMENT OF WOMEN TO JUDICIARY

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

In her reply to Senator Fraser's question last week, the leader stated that the government is making every effort to increase the number of women in the judiciary. However, statistics on judicial appointments indicate that the percentage of women appointed to the federal judiciary by the Minister of Justice has decreased significantly since 2006.

In 2005, 40 per cent of judges were women. However, since 2006, only 30 per cent of the justices appointed have been women and the trend seems to be heading downward.

In 2010 and 2011, for example, just 25 per cent of the justices appointed were women. Could you describe the efforts you said are being made to increase the number of women in the judicial system and why there has been a decrease, as shown by the statistics, even though the number of women in the legal profession continues to increase?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, as I have said, we are extremely proud of the judicial appointments we have made, and this includes the appointment of Chief Justice Nicole Duval Hesler, the first woman in Canada's history ever to be appointed as Chief Justice to the Quebec Court of Appeal. The appointment of qualified women to Canada's judiciary is a priority for our government, and we are making progress.

We recently appointed Justice Karakatsanis to the Supreme Court, which means that now four of the nine judges of the Supreme Court are women. Five of the eleven judges at the Federal Court of Appeal are also women and our government is extremely proud of the fact that we appointed four of those women.

[Translation]

Senator Tardif: Indeed, honourable senators, those are good appointments. However, facts are facts and the statistics show a decline.

The leader also said last week that the government is ensuring that women are well represented in the appointment process. However, as Senator Losier-Cool pointed out in a question in December, women are also under-represented on the committees charged by the Minister of Justice to make federal judicial appointments. In all, women hold just 28 of the 133 positions on those committees. The government's guidelines require the federal Minister of Justice to consider representation of the public in the composition of the advisory committees.

How does the government plan to adjust the composition of these committees in order to ensure that they better reflect the population, including women?

[English]

Senator LeBreton: As the honourable senator knows, there are 17 judicial advisory committees that work on a volunteer basis to identify and recommend qualified candidates for Canada's judiciary. The honourable senator is mistaken if she believes that these advisory committees are set up by the federal Department of Justice.

I have some experience and knowledge in this area. These judicial advisory committees are set up across the country. They are made up primarily of the justices of the various provinces and territories, plus the Chief Justice of the court and others. These

advisory committees, of course, are responsible for making recommendations to the Department of Justice for judicial appointments, and we will continue to seek out, select and recommend for appointment women and men of undisputable merit and legal excellence, with input from a broad range of stakeholders.

The judicial appointments process is one that has stood the test of time. We started this process back under the Mulroney government. It was carried on by the Chrétien and Martin governments. It has produced high-quality people to serve in the judiciary, and we are constantly seeking out appointments of highly qualified women. I just put on the record the names of some of the women we have appointed recently.

PUBLIC SAFETY

ROYAL CANADIAN MOUNTED POLICE

Hon. Grant Mitchell: Honourable senators, did I actually hear the leader compliment the Liberals? Fantastic. What a way to start my question.

There is a case that is public now in which a male RCMP sergeant and a female constable had sex in an RCMP car on RCMP time. The male sergeant was docked ten days' pay and the female constable was fired.

• (1430)

What is it about the culture of the RCMP that a man would be given a slap on the wrist for that and the woman would be fired?

Hon. Marjory LeBreton (Leader of the Government): Senator Mitchell started off okay.

I would I not comment on a situation that I have very little knowledge of. I will simply take the senator's question as notice.

Senator Mitchell: Let me ask another question for the leader to consider on notice.

They both lied about the affair, and then they both admitted it. The female constable, in her tribunal, was actually convicted of lying. The sergeant's lying could not be considered because the terms of reference for his tribunal were designed in such a way that the lying was excluded. What does it say about the culture of the RCMP that the male would not be considered for lying and therefore would skate even being demoted, that was a point made by the tribunal, whereas the female's lying would be considered in the fact that she was fired from her job?

Senator LeBreton: I thank the honourable senator for the question. He raises a valid and excellent question, and I am happy to take it as notice.

Senator Mitchell: The third consideration here was the tribunal actually ruled to fire her and at the same time insisted somehow, I do not know how, that she would have to undertake psychological care. How is it that there would be this kind of arrogance in the RCMP culture where someone could be fired and then the RCMP could consider that they could still order her around?

Senator LeBreton: These are very good and valid questions, and as a woman I am looking forward to what kind of an answer they give us. I thank the honourable senator very much.

Senator Mitchell: Finally, while the leader is considering this, could she consider the litany of this kind of issue that is now emerging and ask the question of herself and of her colleagues how many of these kinds of cases have to emerge, how much of this has to be going on, before this government will step in and do something about changing the culture of the RCMP so that women, among other people, can feel safe in this iconic institution reflecting iconic Canadian values?

Senator LeBreton: I hope the honourable senator was not suggesting that this is the kind of activity we participate in over on this side. In any event, I will take the question as notice, honourable senators.

FISHERIES AND OCEAN

MANAGEMENT OF ATLANTIC FISHERIES

Hon. Elizabeth Hubley: Honourable senators, for over 30 years the backbone of the management of the Atlantic fisheries has been based on fleet separation and owner-operator policies. These policies have ensured that the inshore and midshore fishers along our Atlantic shores have a fair opportunity to operate independent fishing businesses free from the outside influence of large processors and corporations.

These policies have been critical components behind an industry that comprises Atlantic Canada's single largest private sector employer, providing over 20,000 jobs in one of the regions of this country with high unemployment.

Now the Department of Fisheries and Oceans is apparently moving towards eliminating these policies and allowing large corporate entities to move in and take control of this fishery that is so critical to the economic well-being of our Atlantic coast. Can the minister assure us that the Department of Fisheries and Oceans will not abandon the 20,000 workers in this industry by eliminating these policies that have been so important for the whole region of the country?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. All I can say at the moment, and some of these are from very speculative news stories, I believe, is that the Minister of Fisheries is at the moment listening to fishermen and not advocating for any particular position. Of course, our government, as all governments naturally would be, is fully committed to the economic vitality of fishermen and their communities.

Senator Hubley: Supplementary, please. Surely the federal government can acknowledge that a change of this magnitude will impact the lives of thousands of Atlantic Canadians along our East Coast. Will the government commit to an extensive and meaningful consultation process that includes taking hearings directly to the affected communities to give those affected by this decision the ability to contribute to this policy decision?

Senator LeBreton: I think I answered that question. The Minister of Fisheries is currently listening to fishermen and the various communities where this is a major industry. He is not advocating for any particular position. He is in listening mode at the moment, and I can only state what I stated before: We are fully committed to the economic vitality of fishermen and the communities in which they live.

Senator Hubley: Further supplementary, please. On the consultation process, I am wondering if the leader would confirm for me when she takes this back to the minister if in fact he is visiting the areas in the Atlantic region that are most affected by this policy, and if she could also share with us the communities and the fishing organizations that he speaks to.

Senator LeBreton: Honourable senators, I will be certainly happy to make that request of the minister.

Hon. Terry M. Mercer: Minister, you say the Minister of Fisheries is listening. We went through this not too long ago. Minister Ritz, the Minister of Agriculture, said he was listening to farmers. He was going to follow the law and consult with farmers before making any changes to the Canadian Wheat Board. During that debate, both here in this chamber and in the Agriculture and Forestry Committee, I made the point that this was just the tip of the iceberg. The Wheat Board was first, and I predicted supply management would be next. I guess I was a little off. I think supply management is still on the block, according to articles in the paper, but now we will talk about the fisheries industry. We will decimate areas of Atlantic Canada and eastern Quebec.

To quote one of my colleagues in the other place, this government is treating our independent Atlantic Canadian and Quebec owner-operator fleets with nothing but contempt and disrespect by even considering changes that will wipe out independent fishers and make wealthy companies even wealthier on the backs of Atlantic Canadians and coastal Quebec communities.

This is similar to what we predict will happen in Western Canada with the consolidation of those who own the grain and those who control the sale and marketing of grain, which we think will happen after the August 1 date when the Wheat Board officially changes to its new entity.

Senator LeBreton says Minister Ritz is listening, but who is he listening to?

Senator LeBreton: First, with regard to the Wheat Board, we have been around the block on this before. Through a number of election campaigns, the government's commitment was very clear to Western Canadian grain producers to give them the same marketing freedom that producers in other parts of the country have, and farmers in Western Canada do still have the option of selling their wheat through the Wheat Board.

With regard to the Minister of Fisheries, I can only tell you what I know to be the case, honourable senators, and that is that he is listening very intently to the people in the fishing industry and has not taken a position or advocated for any particular position. Unlike the Wheat Board where we did advocate very

clearly and delivered on our promise to Western farmers, in this case the minister is listening very carefully. He is discussing the various options with the people in the fishing industry, and I cannot offer Senator Mercer anything more than I offered to Senator Hubley, that I will be happy to, as I indicated to her, get further information from the minister as to the extent of his consultations.

Senator Mercer: Minister Ritz a month before the election was called indicated that he was going to follow the law as it was at that time and go through a consultation process with farmers. We know what the policy of the government had been through the elections, but he said this to farmers, and that was not worth much. The Atlantic Fisheries Policy Review then states that fishers are to be given a direct say in policy decision-making. The Department of Fisheries and Oceans gave independent fleet operators little or no notice of consultation and very short times to respond.

• (1440)

Is this another example of rushing this thing through so that no one has an opportunity to understand the ramifications? This is bad public policy. If the government proceeds down this road, it will close down hundreds of fishing villages all across Atlantic Canada and Eastern Quebec. It will be dealing with the social problems that will fall out from that.

The Atlantic Fisheries Policy Review says that fishers are to be consulted. Is there a formal plan for that consultation?

Senator LeBreton: Honourable senators, the honourable senator used the word "if." "If" is a small word that can be used and abused in many ways. I can only state what I said to Senator Hubley and that is that the Minister of Fisheries, Mr. Ashfield, is listening at the moment to fishermen and is not advocating any particular position. We are firmly committed as a government to the vitality of the various communities in Atlantic Canada that depend on the fishery for their livelihood.

HEALTH

MENTAL HEALTH

Hon. Jane Cordy: Honourable senators, my question is for the Leader of the Government in the Senate. I had the privilege yesterday of speaking at Dalhousie University to a class who are studying health promotion specifically related to mental health and mental illness. They asked me to speak about the Kirby report, which was published six years ago this May. I know the leader was a part of that committee. It is always interesting to know that people are still studying the Kirby report on mental health and mental illness, which was called *Out of the Shadows at Last: Transforming Mental Health, Mental Illness and Addiction Services in Canada*, and that students at university are now studying it.

The students were asking me questions. There was one question that the leader may not be able to answer today, but I would appreciate it if she would take it as notice. We got into a discussion about the fact that we tend to think that only the

provinces and territories deliver health care, but we do know that the federal government is the fifth-largest provider of health care in Canada because it deals specifically with the RCMP, the military, First Nations, Aboriginals and inmates in the prison system.

The question asked of me by a student was: How much money is spent by the Canadian government on healthcare for those particular groups that the federal government is specifically responsible for? Out of that amount of money that is spent on healthcare for those groups, how much is spent dealing with mental health issues? What percentage of the total amount deals specifically with mental health issues?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. In the Department of National Defence, there has been a large increase in programs with regard to mental health. I will be happy to take the question as notice.

The honourable senator will recall, because we were both on the committee, the whole issue of mental health and mental illness was described as the last frontier; that is, the study of illnesses of the brain. I know our former colleague the Honourable Michael Kirby is doing an outstanding job with the Mental Health Commission.

The honourable senator is quite right. She asked for a lot of details with regard to the amount of money that is expended on mental illness and I will be very happy to take the question as notice and provide a written response.

Senator Cordy: I would also like the total amount of money and the percentage of the whole pot that is specifically spent on mental health and mental illness, if the leader could do that as well.

Senator LeBreton: Yes; I understood that to be the question.

ANSWER TO ORDER PAPER QUESTION TABLED

HEALTH—COMPENSATION TO VETERANS FOR EXPOSURE TO AGENT ORANGE

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 19 appearing on the Order Paper by Senator Downe.

ORDERS OF THE DAY

SAFE STREETS AND COMMUNITIES BILL

MESSAGE FROM COMMONS— SENATE AMENDMENTS CONCURRED IN

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend

the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts, and acquainting the Senate that they have agreed to the amendments made by the Senate to this bill without further amendment.

[Translation]

INCOME TAX ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Banks, for the second reading of Bill S-205, An Act to amend the Income Tax Act (carbon offset tax credit).

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, please allow me to take part in the debate and join the opponents of Bill S-205.

The purpose of this bill is to establish a new, costly, ineffective tax credit for investments in approved offset projects. These non-refundable credits could be up to 15 per cent of one person's total eligible investments for one year.

[English]

While I oppose this costly proposal, I am pleased to say that protecting the health and environment of Canadians has been and continues to be a key priority for our government.

[Translation]

With regard to fiscal policy, the government has presented many measures to support the environment, in particular, the public transit tax credit and the expansion of eligibility for accelerated capital cost allowance for clean energy generation equipment.

Last year in Budget 2011, the government announced that equipment that generates electricity using waste heat would be eligible for the accelerated capital cost allowance.

Moreover, the government renewed its funding for the Clean Air Agenda to support regulatory activities to address climate change, the cornerstone of Canada's policy in this regard. This program will make it possible to achieve real reductions in greenhouse gas emissions, while maintaining Canada's economic advantage and its ability to create jobs for Canadians.

[English]

Building on work to date, the government has renewed the Next Phase of Canada's Economic Action Plan, funding to reduce greenhouse gas emissions, improve air quality and help Canadians and businesses adapt to a changing climate.

[Translation]

For example, the plan allocates \$252 million to supporting regulatory activities that address climate change and air quality, and \$86 million to supporting clean energy regulatory actions, focusing on energy efficiency.

In addition, the next phase of Canada's Economic Action Plan allocates \$48 million over two years to develop transportation sector regulations and next-generation clean transportation initiatives, \$58 million for projects to improve Canadians' understanding of climate change impacts, and \$25 million over two years to advance Canada's engagement in international negotiations and support the Canada-United States Clean Energy Dialogue.

[English]

Honourable senators, I trust you will agree that these actions demonstrate the government's commitment to protect the environment and pave the way to a cleaner energy economy.

[Translation]

Unfortunately, the proposal that we are debating today has many shortcomings, including the cost involved. One of the main problems with Bill S-205 is that it fails to define what constitutes an "approved offset project" and remains vague as to the possibility and ease of developing such a definition.

• (1450)

In order for the government to administer the proposed tax credit, clear criteria would have to be established to determine whether a given offset project is eligible for the credit. What type of project would be eligible, and for each type of project, what would be the specific eligibility criteria? Would eligibility be limited to projects carried out in Canada? How and by whom would projects be evaluated?

[English]

The bill's solution to address this lack of clarity is to let the Minister of National Revenue figure it out, without offering any guidelines that would allow the minister to determine which projects will be eligible.

[Translation]

There are no nationally recognized standards to define offset projects or providers on whom the minister can call to administer the provisions of the bill. Without standardized rules for the allocation of carbon offset tax credits, it would be impossible to validate credits correctly. As such, the quality of the credits could vary substantially from one provider to the next, not to mention that implementing the provisions of Bill S-205 would be an enormous undertaking requiring a new field of expertise within the Canada Revenue Agency. There is simply no national consensus on the eligibility criteria for offset projects. It is not reasonable to expect the Minister of National Revenue to give a taxpayer a carbon offset tax credit if the minister is not even in a position to identify eligible investments.

Honourable senators, implementing Bill S-205 would be totally unrealistic. Asking the Minister of National Revenue to administer this tax credit without key definitions or a regulatory framework is putting the cart before the horse.

[English]

In addition, there is no clear evaluation mechanism and no clear standards in place to ensure that the public subsidies for the carbon offset investment would result in cost-effective reductions in carbon emissions. In other words, the purpose of the bill will not meet its goals, because it does not ensure a reasonable correlation between the amounts spent and the environmental benefits achieved.

[Translation]

It would likely be very difficult to assess the implementation costs and the direct costs. Our examination of the bill revealed that the costs would be open-ended, because there are no limits in the bill on the amount of credits that could be claimed by an individual investor. At the very least, the Canada Revenue Agency would be burdened with significant administrative costs associated with the approval and monitoring of offset projects.

Honourable senators, let us not forget that the personal income tax system already provides incentives to individuals who wish to reduce greenhouse gas emissions. When a taxpayer makes a donation to an organization dedicated to protecting the environment, he or she can ask for a generous tax credit if it is a registered charity. The Government of Canada offers a non-refundable tax credit worth 15 per cent for every dollar donated to a maximum of \$200, and 29 per cent for every dollar over that amount. If we take into account the tax breaks also given by the provinces, Canadians recoup about 46 cents for every dollar donated up to \$200. Given the generosity of the tax credit for charitable donations, it is difficult to believe that individual taxpayers, if given a choice, would opt for the tax credit for the purchase of carbon offsets.

In closing, I would like to reiterate that the bill before us today presents an onerous and unrealistic plan. I respectfully urge all honourable senators to vote against this bill.

[English]

Hon. Nancy Greene Raine: Honourable senators, I rise to address Bill S-205, an Act to amend the Income Tax Act. If passed, this amendment would give tax credits to Canadians who invest in so-called carbon offsets. While I have no objection to citizens spending their own money in any way they choose, I do not support the government's giving tax credits for carbon offsets. I say this for several reasons. First and foremost, I consider it an unnecessary and undesirable expense at a time when we should be looking for ways to reduce the tax burden on Canadians. While it is true that the amendment would benefit those who invest in carbon offsets, it would be an expense that would have to be covered by all other taxpayers. I say it is unnecessary because, contrary to the assertions of the honourable senator sponsoring the bill, it addresses an issue that is more and more being questioned by

new scientific evidence. We simply do not know that our actions have a significant impact on the global climate, let alone that "the consequences of not acting can be catastrophic," to quote Senator Mitchell.

I do not pretend to be a climate expert, but I have spent a lot of time over the past decade reading about this topic and listening to those scientists who are true experts. This, I believe, puts me in a good position to apply a common sense approach to the issue.

Before I outline what I think would be a logical, "no regrets" approach to climate change, I need to clear up some misconceptions about so-called carbon emissions, a term erroneously used by the honourable senator sponsoring this bill in his speech in this chamber on November 23. In Canada and in the United States and, indeed, in many industrialized countries, about 85 per cent of the greenhouse gas we release, other than water vapour, is carbon dioxide. This is not carbon, but a compound of one carbon atom and two oxygen atoms, yielding a molecule that has the chemical formula CO₂. This is not merely an academic point. Ignoring the oxygen atoms and calling CO₂ emissions carbon emissions is as appropriate as ignoring oxygen in water vapour or H₂O and calling it hydrogen. Most Canadians would regard it ridiculous to have their water bill labelled a hydrogen bill.

The "CO₂ is carbon" mistake is a common misconception, and it unjustifiably encourages people to view this benign gas as dirty, which indeed it is not.

Unlike carbon monoxide, sulphur dioxide, nitrogen dioxide and other pollutants, carbon dioxide is not toxic. In fact, it is an essential ingredient in plant photosynthesis, without which there would be no life on earth. For the past century, greenhouse operators have been adding CO₂ to the air inside greenhouses to enhance plant growth.

This is because plants are somewhat undernourished in CO₂ at today's atmospheric levels. We are closer to low CO₂ levels, at which plants die, than we are to any dangerous upper limit. Throughout most of earth's history, CO₂ levels have been significantly higher than they are now, and life flourished.

Unlike a decade ago, when few scientists dared express doubt that humanity's CO₂ emissions are causing dangerous global warming, it seems now that not a week goes by without some leading expert condemning the hypothesis. On January 27, *The Wall Street Journal* published an open letter from 16 leading scientists in which they told politicians that they must, and I quote:

... understand that the oft-repeated claim that nearly all scientists demand that something dramatic be done to stop global warming is not true. In fact, a large and growing number of distinguished scientists and engineers do not agree that drastic actions on global warming are needed.

Signatories to the letter included such eminent scientists as Claude Allegre, former director of the Institute for the Study of Earth at the University of Paris, and Antonio Zichichi, president of the World Federation of Scientists, in Geneva.

Open letters and petitions like this have been circulating for years, several of which were sent to the three most recent Canadian prime ministers. The best known of all of these documents is the Global Warming Petition Project, which now claims over 31,000 U.S. scientists and technically qualified professionals. They assert:

There is no convincing scientific evidence that human release of carbon dioxide, methane or other greenhouse gases is causing, or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate.

• (1500)

Honourable senators, if carbon dioxide and other greenhouse gases are not causing climate change, what is causing it? In December, the Standing Senate Committee on Energy, the Environment and Natural Resources heard from leading climate experts whose research indicates that the primary driver of climate change is the sun. They maintain that the greenhouse gas reduction recommendations of the United Nations Intergovernmental Panel on Climate Change, the IPCC, are simply in error and that humanity does not control our planet's climate.

I cannot judge whether they are right, but I do think that we must carefully consider well-substantiated alternative theories in a field as immature as climate change science. After all, if governments are to base policies on real science and not become bogged down in mere rhetoric and politically correct dogma, we must hear from experts who follow the scientific method, even, and perhaps especially, when they come to conclusions that are not currently in vogue.

The scientific method lays out how we must first observe nature, then create possible hypotheses to explain the observations, then test those hypotheses and then change our ideas to fit observed facts, all the while encouraging open, science-based discussion and questioning. Yet today, unfortunately, many environmentalists become indignant if one dares question politically correct ideas about climate change. Clearly, this is not constructive.

In his working paper just submitted to Dutch authorities, leading scientist Arthur Rörsch critiqued the UN IPCC, the body whose reports constitute the foundation for many of the government's climate policies. He shows that their methods at times strongly deviate from the scientific method. In the December Senate hearing, we heard about many of the other problems of the IPCC and how they simply can no longer be trusted as an unbiased source of scientific information.

Consequently, I recommend to the Standing Senate Committee on Energy, the Environment and Natural Resources that they consider doing a thorough study into the current state of climate change science, carefully considering all reputable points of view on the issue. In addition, the committee should consider whether the reports of the IPCC should be relied upon by the Government of Canada for policy formulation. To give members a quick overview of the many problems with the IPCC, I suggest that you read the well-documented review by Canadian investigative journalist

Donna Laframboise. Her book is entitled *The Delinquent Teenager Who Was Mistaken for the World's Top Climate Expert*. After reading the book, you may no longer consider her book title to be mere humour.

It has often been suggested that to "fight climate change" Canada can easily make a conversion from conventional energy sources to low-carbon-dioxide emitting wind, solar and other power sources. In his speech supporting Bill S-205, the honourable senator promoted these energy sources as job and wealth creators for Canada. However, honourable senators, the experience in Europe tells a very different story.

For example, researchers at the Instituto Bruno Leoni in Italy found that for every so-called "green job" created by subsidies, nearly five times as many ordinary jobs could have been created in the general economy at the same cost. The Italian researchers add:

What's often ignored is that the creation of green jobs through subsidies or regulation inherently leads to the destruction of job opportunities in other industries. That's because any resource forcibly taken out of one sector and politically allocated in favour of renewable energy cannot be invested elsewhere.

A November 2009 German economic paper from the Ruhr University Bochum and RWI, a publicly funded research institute, concluded:

It is most likely that whatever jobs are created by renewable energy promotion would vanish as soon as government support is terminated.

University of Guelph economics professor Ross McKittrick, sums it up best by saying:

If spending money on greenhouse gas reduction is profitable and makes people better off then there is no need for government to force it to happen.

I wish to make it clear that I believe that the Government of Canada must indeed continue to protect our natural environment, but we must concentrate our energy and financial resources on tackling environmental problems we know to be real, such as cleaning up toxic waste dumps and reducing agricultural and urban runoff that pollutes lakes and rivers. The climate always changes and there may well be nothing we can do to stop it.

In summary, I believe that the real focus of Canada's climate policy, the no-regrets approach that yields benefits no matter what causes climate change, must be to help vulnerable people and communities prepare for and adapt to inevitable climate change. We should also continue to support scientific research in the field so that some day we may be able to forecast climate to help us get ready for whatever nature throws at us next.

[Translation]

Senator Carignan: Senator Raine gave us some quotes. I would therefore like to cite two excerpts from an article published in the *Tocqueville Review* in 2011.

Here is the first citation:

Even if Canada took dramatic action and managed to reduce its GHG emissions by half, such efforts, by themselves, would not have a noticeable impact on the climate disturbances that threaten the country, because Canada accounts for only 1.88% of global emissions.

The second citation speaks about Albertans and the oil sands:

But the oil sands are responsible for only 0.1% of global GHG emissions and therefore only 0.1% of the melting of Western Canada's glaciers.

Who is the author of this quote?

[English]

Senator Raine: I am sorry; I do not know who the author of that quote is. Perhaps the honourable senator could tell us.

Senator Carignan: Stéphane Dion.

Senator Raine: Honourable senators, I am in receipt of an email sent to the Honourable Senator Mitchell on January 10 in 2012. I decided that it would not be good use of our time here in the Senate to read some of the quotes, but it is literally page after page of quotes by eminent scientists talking about the uncertainty of the climate science. I will circulate this to all honourable senators so they can read it for themselves. I would encourage everyone to remember that it is very difficult for public policy to get out in front of public opinion. We should be asking ourselves this question: How did the opinion that man is causing dangerous climate warming get where it is today?

Senator Mercer: Through science.

Senator Cowan: Is Senator Raine making a second speech? I thought she had concluded her speech and Senator Carignan asked her a question and now she is up speaking again.

[Translation]

Senator Carignan: I do appreciate receiving a complete answer to the question posed by the Honourable Senator Raine.

(On motion of Senator Mockler, debate adjourned)

• (1510)

[English]

INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA'S DOMESTIC AFFAIRS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada's domestic affairs and their abuse of Canada's existing Revenue Canada Charitable status.

Hon. Donald Neil Plett: Honourable senators, I am pleased to rise today to speak to Senator Eaton's inquiry on the involvement of foreign foundations in Canada's domestic affairs. I am further happy to be part of what Senator Mitchell calls the Finley-Eaton tag team. As was shown on May 2, 2011, indeed, it is a tag team championship.

Senators on both sides of this chamber would agree that Canadians have a duty to protect their land and people and to keep our country strong, sovereign and free. However, right now Canada's sovereignty is being challenged in a veiled threat through foreign charities. More than 4,300 foreign-funded environmentalists have signed up to appear before a panel vetting the proposed Northern Gateway pipeline from Alberta to the B.C. coast, despite the fact that a Nanos survey conducted at the end of January found that nearly 75 per cent of respondents believe that Canada should diversify its energy export markets beyond the United States.

Prime Minister Stephen Harper recently stated:

... just because certain people in the United States would like to see Canada be one giant national park for the northern half of North America, I don't think that's part of what our review process is all about. Our process is there to determine what the needs and desires of Canadians are.

Mr. Harper also said:

And I think ultimately because it's Canadian jobs that are at stake, that Canadians have to be the ones who make the decisions.

It is about balance between the environment and the economy. It seems that Senator Mitchell shares the view that Canada should be one big tourist park. If Senator Mitchell had his way, he would impose a carbon tax on Canadians — a tax on absolutely everything. Canadians would be paying substantially more for gas for their cars, electricity for their homes and everything else they buy.

Ezra Levant recently stated about Senator Mitchell, "He's a bizarrely anti-Alberta, anti-oilsands senator." I certainly know why Senator Mitchell would oppose Senate elections, especially if he would need to run.

National Resources Minister Joe Oliver recently stated in an open letter:

Unfortunately, there are environmental and other radical groups that would seek to block this opportunity to diversify our trade. Their goal is to stop any major project no matter what the cost to Canadian families in lost jobs and economic growth. No forestry. No mining. No oil. No gas. No more hydro-electric dams.

These groups threaten to hijack our regulatory system to achieve their radical ideological agenda. They seek to exploit any loophole they can find, stacking public hearings with bodies to ensure that delays kill good projects. . . . They

attract jet-setting celebrities with some of the largest personal carbon footprints in the world to lecture Canadians not to develop our natural resources.

A number of senators have previously cited contributions through charitable organizations, but they bear repeating.

Vivian Krause showed evidence in the *Financial Post* that since 2000 U.S. foundations have granted at least \$300 million to various environmental organizations and campaigns in Canada. For instance, the San Francisco-based Gordon and Betty Moore Foundation has granted \$92 million. Gordon Moore is one of the founders of Intel Corporation. The William and Flora Hewlett Foundation and the David and Lucile Packard Foundation have granted a combined total of \$90 million, mostly to environmental groups in British Columbia. The Pew Charitable Trusts, based in Philadelphia and created by the founder of Sun Oil, has granted at least \$82 million over the past decade; and at least \$40 million has been granted by other U.S. foundations.

Of the \$300 million, at least \$150 million was specifically for the Great Bear Rainforest initiative, the Pacific North Coast Integrated Management Area and the Canadian Boreal Initiative. The Great Bear Rainforest is a 21 million-hectare zone that extends from the northern tip of Vancouver Island to the southern tip of Alaska. Environmentalists now claim that oil tanker traffic must not be allowed in the Great Bear Rainforest in order to protect the Kermode bear, also called the spirit bear. North coast B.C. First Nations groups have received at least \$50 million from U.S. foundations — \$27 million from Moore, \$19 million from Hewlett and Packard, and several million more from other U.S. foundations. The Pew Trusts also granted \$57 million to the Boreal Forest Initiative which seeks to place half of Canada's Boreal forest, nearly two thirds of the area of Canada, into protected status.

The main aim of the Great Bear Rainforest initiative and the Canadian Boreal Initiative is to destroy Canada's oil industry. The industry employs upwards of 800,000 Canadians, contributes \$65 billion to Canada's GDP, as well as \$9 billion in corporate and personal taxes to federal, provincial and municipal governments. U.S. foundations have granted at least \$30 million specifically for campaigns to impede this Canadian industry and Canada's economy.

Honourable senators, when we speak of Canada's Boreal forest, I would like to note that over the past 40 years, only 0.02 per cent of Canada's Boreal forests has been disturbed by the oil sands mining operations and that 94 per cent of the Lower Athabasca region's living resources have been left intact. As well, in Alberta alone, 90,000 square kilometres, or approximately 24 per cent of the Boreal forest, is protected from development.

What strategic plan does Hewlett-funded Tides Canada have? Does it involve funding a large number of politically motivated parties or individuals under the guise of charities? Tides U.S.A. and sister organization Tides Canada have paid a total of \$10.2 million to 44 organizations that campaign against Canadian oil.

Honourable senators, let me quote from Senator Finley's speech from last Tuesday. He said:

Canadians need to march with their phones and computers to tell Carol Larson of the David and Lucile Packard Foundation, Melissa Bradley of the Tides Foundation and Peter Robinson of the David Suzuki Foundation that they will not stand for this.

Canadians are rightfully concerned that an oil spill similar to the *Exxon Valdez* oil disaster could devastate the B.C. coast for years to come. They are every bit as Canadian as you or I, but their billionaire funders are not. U.S. billionaires and their billion-dollar charitable foundations are fighting the oil companies on Canadian soil.

Canada is indeed a sovereign nation, which is why foreign entities should simply not be allowed to meddle in the Canadian regulatory process under the guise of charities.

• (1520)

As Ethical Oil spokesperson Kathryn Marshall stated:

Letting foreign money buy its way into our regulatory processes is wrong. It opens doors to foreign interests that have no concern for our jobs and our economy. When a foreign-funded, anti-pipeline activist admits, as Eric Swanson of the Dogwood Initiative did on CTV, that "if I got duffel bags of money delivered from Martians from outer space, I would still take that money," Canadians should take him at his word.

Let me ask you this, honourable senators: If environmentalists are willing to accept money from Martians, where would they draw the line on where they receive money from? Would they take money from al Qaeda, the Hamas or the Taliban? Who is really making the decisions in Canada if we allow foreign money to lobby against what should be Canadian-made decisions?

Prime Minister Harper and our Conservative government have been a strong voice for Canadian sovereignty. Through rebuilding our Canadian Forces and adopting a new, values-based foreign policy, our government is ensuring Canada's autonomy while advancing our national interests on the world stage.

Our government is making sure that values that Canadians hold dear — freedom, democracy, human rights and the rule of law — are being promoted on the world stage. Canada is now asserting its sovereignty in the Arctic, pursuing new international free trade agreements and strengthening our contributions to global security, most notably through the UN-NATO missions in Afghanistan and Libya.

By promoting free trade globally, Canada is providing a foundation for expanded exports and, ultimately, strengthening our national economy. Currently, one in five jobs in Canada are linked to international trade and almost 60 per cent of Canada's GDP is connected to trade. Since our government came to office in 2006, Canada has completed new free trade agreements with nine countries.

As Minister of International Trade, Ed Fast, recently stated:

The global economic recovery remains fragile, and many threats remain. Jobs and economic growth to benefit Canadians are our government's key focus. That is why we are committed to aggressively pursuing bilateral and regional trade talks and making more effective use of Canada's diplomatic assets.

Our government continues to focus on growing Canada's economy and creating jobs with our pro-trade plan. Free trade creates a foundation of ongoing competitiveness, innovation and strength.

Prime Minister Harper recently stated on his trip to China:

Canada is not just a great trading nation; we are an emerging energy superpower. It has abundant supplies of virtually every form of energy, and you know, we want to sell our energy to people who want to buy our energy, it's that simple. Currently, 99 per cent of Canada's energy exports go to one country — the United States. And it is increasingly clear that Canada's commercial interests are best served through diversification of our energy markets. To this end, our government is committed to ensuring that Canada has the infrastructure necessary to move our energy resources to those diversified markets. Yes, we will continue to develop these resources in an environmentally responsible manner, but so too will we uphold our responsibility to put the interests of Canadians ahead of foreign money and influence that seek to obstruct development in Canada in favour of energy imported from other, less stable parts of the world.

Some Hon. Senators: Hear, hear.

Senator Plett: A respected climate scientist and modeller from the University of Victoria, Andrew Weaver, recently calculated that emissions from the Alberta oil sands do not make a big difference to global warming. Weaver's research shows even if all the possible products that could ever come from the oil sands were used, the global mean temperature would rise only about 0.36 degrees Celsius. Weaver's study also showed that if the proven oil sands reserves were used between 2012 and 2062, it would raise the global temperature by just 0.03 degrees Celsius.

An Hon. Senator: How much?

Senator Plett: By 0.03 degrees Celsius.

This is a stark contrast from oil sands opponents like Senator Grant Mitchell, who has suggested that the carbon emissions from the oil sands will make the Earth uninhabitable. Unfortunately, the oil sands have been labelled by environmentalists as the largest threat to the world's climate. However, research now shows that other energy sources, such as coal, have been shown to have a much bigger environmental impact. Weaver's study claims that if the global coal supply was burned, the global temperature could rise up to 15 degrees Celsius.

Honourable senators, may I have five minutes?

The Hon. the Speaker: Is five minutes granted, honourable senators?

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Please proceed.

Senator Plett: Total greenhouse gas emissions from the oil sands in 2009 were 45 megatonnes. This is approximately the equivalent of 3.5 per cent of 2009 emissions from the U.S. coal-fired power generation section.

Nuclear energy is known to be one of the lowest greenhouse gas emitters in power generation. In spite of this, the first new nuclear plant built in the United States in more than 30 years was recently approved by U.S. regulators.

It is not my intention, honourable senators, to pit one country against another with our use of our energy resources. However, countries and lobbyists should look in their own backyards first before interfering in policies and regulations of other countries, especially when lobbying against them is masked under the guise of charities.

I would like to note Senator Mitchell's offensive claim from last Tuesday's debate:

... this government that says, "We do not even want to talk about the environmental side of things. We do not even want to demonstrate that we are open to public discussion and policy debate about the environmental side of things."

In answer to Senator Mitchell, in fact the federal Conservative government and the Alberta provincial Conservative governments have invested approximately \$3 billion to make Canada a leader in carbon capture.

Some Hon. Senators: Hear, hear.

Senator Plett: Also, in 2007, the Alberta government implemented greenhouse gas regulations requiring a mandatory 12 per cent reduction in greenhouse gas emissions for all large industrial sectors, including existing oil sands facilities.

Since 2007, these regulations have resulted in greenhouse gas reductions of 23 megatonnes, which is the equivalent of taking 4,800,000 cars off the road.

As Vivian Krause eloquently states:

Canadians can take care of Canada. The Rockefellers and other billionaire philanthropists should spend their money reducing poverty in the U.S. and around the world, not on manipulating markets, swaying investment capital and protecting trade interests.

Honourable senators, Canadians should be the decision makers of Canadian policies and regulations. We need to ensure that we protect our sovereignty from the manipulation of foreign interests and lobbyists who wish to exploit our regulatory processes for their own agendas, agendas that are clearly against Canada and Canadian sovereignty. Thank you very much.

• (1530)

Hon. Terry M. Mercer: Would the honourable senator take a question?

Senator Plett: I guess that is the downside of asking for the extra time.

Senator Mercer: Honourable senators, as the spokesman for the flat earth society over there, I wanted to know whether this money the honourable senator is talking about — by the way, honourable senators should look at the work some of these foundations do everywhere; they do absolutely fabulous work in different areas. Senator Plett does not have to particularly care what they are doing, so he will trash them.

What about the National Rifle Association? When it came to Canada, it spent untold amounts of money in opposition to the gun control legislation brought in by the Chrétien government. Does Senator Plett think that was okay?

Senator Plett: Let me simply state, when the honourable senator says that these organizations do some good work, a motivational speaker that I enjoy listening to, a man by the name of Zig Ziglar, once said that you can occasionally find a good biscuit in a garbage can, but that is not the place to look for it.

The Hon. the Speaker *pro tempore*: Further debate?

[Translation]

Hon. Percy Mockler: Honourable senators, I am pleased to speak today to Senator Eaton's inquiry, one that is very important to all Canadians across the country.

There is no doubt in my mind that the people of Canada have the right to know about foreign foundations' involvement in our country's domestic affairs. It is important to draw Canadians' attention to the mean-spiritedness of some charitable organizations, organizations that are beyond the reach of the Canada Revenue Agency Act. Honourable senators, such practices should not be tolerated. Revenue Canada should immediately reassure Canadians about these practices, which I would call Machiavellian. These practices must be brought out into the open.

[English]

Honourable senators, where I come from, without a doubt we would call Senator Eaton's inquiry a trailblazer. We must together put a stop to the interference of foreign foundations in Canada's domestic affairs. We have many examples of those foundations muddling in the business of our country. I believe they abuse the laws of Revenue Canada. Yes, honourable senators, we must together — I say "together," but I have been here for a little over three years and I know that although they say our chamber is apolitical, it is not — we must together put an end to this unfair practice that impacts every area of Canada.

I want to take this opportunity to inform honourable senators about some of the practices used by some foreign foundations now operating in Canada. There is no doubt in my mind that they are masking the truth about who we are as Canadians, and they contribute to seeding doubt in the minds of our people.

One must remember — and I will have the opportunity to share information with Senator Mercer.

One must remember and be reminded. I want to acknowledge what President Obama said in 2010 at the State of the Union address. He warned that the existence of super PACs would "open the floodgates for special interests — including foreign companies — to spend without limits." He went on to state, "I don't think American elections should be bankrolled by America's most powerful interests, and worse, by foreign entities."

We must be reminded of the psychology of those charities and foundations that are commonly referred to as PACs, political action committees, a psychology that I understand, and a psychology that I have seen — the good, the bad and the ugly. While PACs are legal in the United States, they are illegal in Canada, and we must not sanction their mischievous and malicious messages in our country. If so, they will put in jeopardy — and I say "if so" — they will put in jeopardy our sovereignty.

Nevertheless, we have in North America some foundations that have had an impact on the quality of life of Canadians. Some foundations that have done so I will label as "good foundations." We can look at these foundations and see they have actually helped move the vision of North America, let alone globally.

One of these great foundations is the Bill & Melinda Gates Foundation. I want to share with you that their mission is about health, from HIV/AIDS to malaria, nutrition, polio and vaccine-preventable disease. Thumbs up for that foundation.

There is the Ford Foundation, which believes that all people should have the opportunity to reach their fullest potential, contribute to society and have a voice in the decisions that affect them.

There is the Rockefeller Foundation, which is an outstanding foundation. It supports work that expands opportunity and strengthens resilience to social, economic, health and environmental challenges since 1913.

There is also the Canadian Tire Foundation for Families, another good foundation, which has a clear and precise mission to provide a helping hand to families in need by ensuring life's basic needs are met.

There is the Baxter International Foundation. Their primary mission and purpose is to make a positive and lasting impact on health care and the health of communities around the world.

Honourable senators, I could go on and on, but time does not permit me. However, I want to bring to your attention some of the qualified bad, not to mention ugly, foundations, namely the David Suzuki Foundation, the Packard Foundation, the Mott Foundation, the Sierra Club Foundation, the Hewlett Foundation, the Ecojustice Canada Bullitt Foundation, the Gordon and Betty Moore Foundation and Tides Canada. Yes, honourable senators, there is also the Greenpeace International foundation.

Senator Duffy: They are all anti-Canadian.

Senator Mockler: That is not what we are saying, Senator Munson. What we are saying is they should stand up and believe in the Canadian vision with a Canadian objective, that we are entitled to make our own decisions.

The main purpose is too often seen as hijacking our Canadian agenda. We have seen them many a time on television and heard them on our radios, and I believe that a charity should not take part in an illegal or a partisan, political activity. There is, honourable senators — and I ask the Honourable Senators Mercer and Munson to please listen and they will learn.

What are prohibited activities? One should be reminded as to what prohibited activities are. Charities should not directly or indirectly support a political party or candidate for public office with the main purpose of having its own views or its own agenda and disregarding our sovereignty in Canada.

[Translation]

Honourable senators, we are aware of many examples of interference by certain foundations and their questionable practices.

• (1540)

We have seen a number of activities that demonstrate the efforts made by charitable organizations to influence the government's main concern, Canada. Let us look at some of their activities.

There are so many examples, but I would like to share with you today some activities that will allow us to discern and recognize that, most of the time, they consist of dirty tricks, which cannot be tolerated here, in Canada.

You will certainly remember when Paul McCartney went to Newfoundland and Labrador to protest against the seal hunt. The former premier, Danny Williams, proved beyond a doubt that Mr. McCartney and his accomplice had incorrect information.

[English]

Without a doubt, Canadians, regardless of where we live in this country of ours, are known for our fairness, our respect and our sense of responsibility towards our communities. Therefore, there is no doubt in my mind that foreign interests have their own agenda. Let us remind ourselves of the fierce opposition to the Northern Gateway Pipeline.

Many groups in Canada receive funds from American foundations to oppose economic development in our own country. That is not acceptable.

An Hon. Senator: They want our people unemployed.

Senator Mockler: Let us be reminded of the Keystone XL pipeline as another prime example. Even the David Suzuki Foundation, in collaboration with Greenpeace, did its best to

confuse and oppose energy projects from coast to coast to coast. We saw them in New Brunswick, we saw them in Nova Scotia, we saw them in Quebec, we saw them in Ontario, and we also saw them in Western Canada.

An Hon. Senator: They want to keep us poor.

Senator Mockler: Honourable senators, I want to spare you the long list of projects that the bad and the ugly foundations oppose in our country. Many previous speakers have touched on this and others will.

However, I strongly believe that, as Canadians, decisions regarding our sovereignty must and should be made by Canadians.

Some Hon. Senators: Hear, hear.

Senator Mockler: The future of Canada belongs to Canadians, with the main objective of keeping in mind our priorities and our values.

Honourable senators, some people will dislike some decisions; however, the majority of Canadians on May 2, 2011, entrusted Prime Minister Stephen Harper with a strong, stable, majority with Canadian values and a mandate to govern based on Canadian interests and not on the interests of foreign foundations or people supporting foreign foundations.

An Hon. Senator: Well said.

Senator Mockler: We are on the right track. One only has to read this article stating overwhelmingly that over 80 per cent of the world would love to be Canadian. Why? The answer is very simple. Because of our friendliness, we are welcoming people. Our rights and freedoms are respected and we have the best quality of life in the world. Last, but not least, Canadians are tolerant people from coast to coast to coast, from different racial and cultural backgrounds.

Honourable senators, the time has come for the Canada Revenue Agency to close that gap, to close the loopholes for those foreign foundations with their sole purpose of making Canada look unpleasant and undesirable in other parts of the world.

Some Hon. Senators: Hear, hear.

Senator Mockler: Honourable senators, let us stand together to make sure that Canada will continue to be the envy of the world. We must be resolved and firm in order to ensure that we will continue to develop our natural resources based on scientific data rather than personal foreign agendas. By doing so, Canada will stand strong and stable, and it will remain a country to be envied globally. I hear senators on the left side of the speaker laughing, but to do nothing will be a setback.

We believe that, in being steadfast, unwavering, firm and committed, we will reassure Canadians that our country will continue to be the best country in the world in which to live, work, raise our children and reach out to the most vulnerable.

Some Hon. Senators: Hear, hear.

Senator Mockler: Since 2008, even with the worst economic meltdown Canada and other countries have seen, we Canadians have outshone and still outshine the other global leaders. Canada is being hailed by other world leaders. That is directly linked to Canada's present, far-seeing leadership under our Prime Minister.

I would ask my honourable colleagues on the other side to come with me, to knock on the doors and we will, honourable senators, go to Tim Hortons and McDonald's, and Canadians will tell us what they think about the leadership of Canada right now.

The Hon. the Speaker pro tempore: I regret to inform the honourable senator that his time has expired. Is he asking the chamber for more time?

Senator Mockler: I would ask for five more minutes.

The Hon. the Speaker pro tempore: Is five minutes granted?

Senator Mockler: With the cooperation of everyone, I would ask for the five minutes.

Hon. Senators: Agreed.

Senator Duffy: We have just arrived at Tim Hortons. We cannot leave now.

Some Hon. Senators: Oh, oh.

Senator Mockler: We can share a laugh on both sides. I believe that we should. As a senator from New Brunswick, I believe we will not let any foundation hijack our agenda because the people, regardless of where they live, must defend Canadian values. We have created wealth and quality jobs since 2006. We will continue being focused on the economy and we will always keep in mind our democratic values.

In closing, there is no doubt in my mind that people do not care who we are until they know what we care for. Honourable senators, on the right side of the Speaker, we care for the people of Canada, and I will also include the ones immediately to the left of the Speaker.

Hon. James S. Cowan (Leader of the Opposition): Would Senator Mockler entertain a question?

Senator Mockler: Yes.

Senator Cowan: In his comments, the honourable senator spoke of the bad and the ugly, and he talked about illegal activities. Would the honourable senator please identify some specific examples of illegal activities and which bad and ugly foundation he is speaking of?

Senator Mockler: I will remind the honourable senator to reread my speech. On this, I would remind him to basically take time to read the quote of President Obama which I read. Thank you.

Senator Cowan: He is the one? President Obama?

Hon. Wilfred P. Moore: I am wondering in which category the Federal Reserve Bank of the United States fits in the honourable senator's listing?

Senator Mockler: With regard to his question, I would ask the honourable senator to read the list in my speech.

• (1550)

Senator Moore: That was not much of an answer, but with reference to the good senator's remarks about preserving Canadian autonomy, sovereignty and the Canadian agenda, what does he have to say about the hundreds of billions of dollars given by the Federal Reserve Bank under the TARP funds to the Canadian chartered banks?

Senator Mockler: Honourable senators, I must admit that I believe the comment made and the question asked by the honourable senator does not reflect the tone of my speech and does not reflect what I said on foreign foundations.

Senator Moore: Let me remind the honourable senator that he was talking about the Canadian agenda. He was talking about foreign influence of a few million dollars by some corporations, but I am talking about hundreds of billions of dollars by the U.S. Federal Reserve Bank with respect to our chartered banks.

Senator Mockler: Honourable senators, I have always fought for the most vulnerable. I will also share with you that when I see any foundation or groups trying to dictate what will be the agenda of Canadians, I will not accept that. I will always strive, honourable senators, to make my province and our Canada, coast to coast to coast, a better place to live, a better place to work, a better place to raise our children and a better place to reach out to the most vulnerable. The leader that we have today is being hailed by all global leaders because Canada is on the right track and we will continue to do that.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker pro tempore: Further debate?

(On motion of Senator Cowan, debate adjourned.)

BUSINESS OF THE SENATE

The Hon. the Speaker pro tempore: Honourable senators, the Senate will now suspend pending a report from His Excellency the Governor General of Canada and honourable senators will be called back to a 15-minute bell.

Honourable senators, do I have permission to leave the chair?

Hon. Senators: Agreed.

(The sitting of the Senate was suspended.)

[Translation]

• (1610)

(The sitting of the Senate was resumed.)

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

March 13, 2012

Mr Speaker:

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, signified royal assent by written declaration to

the bill listed in the Schedule to this letter on the 13th day of March, 2012, at 3:32 p.m.

Yours sincerely,

Stephen Wallace
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bill Assented to Tuesday, March 13, 2012:

An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts (*Bill C-10, Chapter 1, 2012*)

(The Senate adjourned until Wednesday, March 14, 2012, at 1:30 p.m.)

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SENATE



SÉNAT

CANADA

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• 41st PARLIAMENT

• VOLUME 148

• NUMBER 61

OFFICIAL REPORT
(HANSARD)

Wednesday, March 14, 2012



The Honourable NOËL A. KINSELLA
Speaker

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, March 14, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

SENATORS' STATEMENTS

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

PARLIAMENTARY ASSEMBLY MEETING

Hon. Francis William Mahovlich: Honourable senators, I want to share with you the discussions that took place at the eleventh winter meeting of the Parliamentary Assembly of the Organization for Security and Co-operation in Europe, or OSCE. The meeting took place over two days in February and involved the participation of nearly 250 parliamentarians from the 56 countries of the OSCE and even a few of its Mediterranean partners.

The winter meeting impressed me with the level of scrutiny and the range of issues discussed. I participated in the discussions on terrorism and crime in the region and emphasized the important role that the parliamentarians of the OSCE play regarding these issues, which, because they are not constrained by borders, can only be addressed in concert and in a coordinated manner.

At the meeting on democracy and human rights, individuals spoke on behalf of immediate family members or business associates about the ill treatment — in some cases even fatal — that they have faced in the justice systems of their respective countries, reinforcing for me the value of the Parliamentary Assembly in raising awareness about the violations of human rights in the region.

Otherwise indicating the value of the Parliamentary Assembly, the meeting on economic and environmental issues held a timely debate on the economic crisis in Europe. A plenary session was devoted to a special debate held on the future of conventional arms control in Europe.

Finally, the Parliamentary Assembly adopted a statement on the situation in Syria, calling for all parties in that conflict to fully respect human rights and fundamental freedoms.

Honourable senators, the winter meeting was informative and gave Canadian parliamentarians an opportunity to exchange views with other parliamentarians about issues of common concern. I encourage you to participate in the meetings of the Parliamentary Assembly of the OSCE should you have the opportunity to do so.

In conclusion, I want to thank the staff of the Canadian delegation to the OSCE, in particular Ambassador Fredericka Gregory, for the support and assistance they provided during the meeting.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. David Chapman, his wife Robin, and his sons Levi and Asher from White Rock, B.C. They are the guests of Senator St. Germain, P.C.

Honourable senators, I also wish to draw your attention to the presence in the gallery of Her Excellency Sheila Sealy Monteith, High Commissioner for Jamaica. Her Excellency is accompanied by Mr. Ewart Walters, the Jamaica 50 Ottawa Chair, and by Mrs. Michelle Meredith, the wife of Senator Meredith. Also accompanying Her Excellency are Mrs. Norma Dadd McNamee, who is the former attaché for Jamaica to Canada; and Ms. Laura McNeil, Consular Deputy High Commissioner for Jamaica in Canada.

On behalf of all senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

JAMAICA

CONGRATULATIONS ON FIFTIETH ANNIVERSARY OF INDEPENDENCE

Hon. Don Meredith: Honourable senators, later this year Jamaica will celebrate an important milestone anniversary. Fifty years ago, on August 6, 1962, Jamaica became the first British colony in the Caribbean to gain full independence. This significant achievement became an inspiration to other island colonies of the region.

Today, Jamaica is the third most populous anglophone country in the Americas after the United States and Canada. An island blessed by lush tropical beauty and a resourceful population, in the years since independence, Jamaica has produced many world-class athletes and more than its share of fabulous musicians. As a tourist destination, particularly for many Canadians seeking to escape the deep cold of winter, Jamaica's natural charms and the warmth of its people provide welcome relief that is second to none.

The island of Jamaica shares many characteristics and ties with Canada. Jamaica is a member of the Commonwealth. Its government is headed by the queen, with a bicameral Parliament consisting of an elected house and an appointed senate. Economically, Jamaica benefits from close relations with Canada. Branches of the bank of Nova Scotia and the Royal Bank have been established on the island for many years. Even before that, the commerce by sea between Newfoundland and Jamaica led to the introduction of salt fish into the diet of Jamaicans, while Jamaican rum became the popular beverage of Newfoundland.

The ties between our two countries continue to develop and grow deeper through the immigration of many islanders to this country. This Jamaican diaspora, of which I am a proud member,

has added to the rich texture of Canada's multicultural mix. Jamaican Canadians have made significant contributions to their adopted homeland in the areas of education, media, finance, drama, and sports. They have added more than a little sugar and spice to the Canadian cultural diet through music, dance, and art.

• (1340)

Later this month, honourable senators, cities across Canada, including Ottawa, Toronto and Montreal, will be hosting Jamaica50 festivities led by members of the Jamaican community. These celebrations will not only reinforce the Jamaican diaspora's pride in its heritage but also provide a timely opportunity for Jamaican people to renew their commitment to their Canadian home.

Honourable senators, as the first Jamaican-born member of this body, I will have the great privilege of launching the cross-Canada celebrations marking the fiftieth anniversary of Jamaica's independence here in Ottawa. As a Patron of Honour, I will be joined by Her Excellency Sheila Sealy Monteith, High Commissioner for Jamaica to Canada, on Thursday, March 22, at the Government Conference Centre to begin the festivities that celebrate all that Jamaica has achieved over the last half century.

In celebration of this great accomplishment in the coming months, I will also put forward a motion to allow my colleagues in this place to play an important role in recognizing this momentous occasion in Jamaica's history and sending a clear message of friendship to the people of Jamaica.

Please join me, honourable senators, as we mark this important milestone and celebrate the goodwill and warm ties that bind Jamaica and Canada.

THE R. JAMES TRAVERS FOREIGN CORRESPONDING FELLOWSHIP

Hon. Jim Munson: Honourable senators, it has been a year since Jim Travers died suddenly, leaving countless readers and viewers, who turned to him for his thorough and wise coverage of the news, reeling from shock. Praise for this intelligent and extremely likeable man came from everywhere — from the Prime Minister and opposition leaders, to journalists and others who worked with him during his long, exemplary career.

Some of the quotes about him were that he was “a journalist's journalist; a first-rate friend of many years; . . . someone who loved journalism for all the right reasons.”

Jim always brought tremendous skill to his work as a reporter, as a foreign correspondent and Bureau Chief for Southam News, as Editor of the *Ottawa Citizen* and as Managing Editor of the *Toronto Star*. “A clever and reassuring presence in print and on television” is how Don Newman described him. I could not agree more.

The knowledge and insight Jim garnered from each job he held and every event he covered continually enriched his ability to tell a story. He was committed to his craft. As focused as he was on honing his own skills, he was just as much a trustworthy source of encouragement and guidance for other journalists.

To commemorate Jim's ideals and ensure that journalists will continue to benefit from his contribution to the field, his friends and family have established the R. James Travers Foreign Corresponding Fellowship. Jim particularly cherished the experience of bringing Canadian stories of important events taking place outside our borders — in Africa, the Middle East and elsewhere. Each year, the fellowship in his name will award a Canadian journalist or a journalism student a \$25,000 grant to support a significant foreign reporting project.

Honourable senators, it is my pleasure to tell you that the first recipient of this fellowship has been selected and will be announced this afternoon, at 4 p.m., at a reception right here on Parliament Hill, in the Commonwealth Room. That is room 238-S, Centre Block. Of course, to entice my former journalistic friends, I said that refreshments will be served. I hope to have a big attendance and I also hope to have a few senators from both sides there because I think it is important for Jim, for his family, for journalism, for Senator Wallin, for Senator Duffy, for Senator Fraser, for Senator Fairbairn, for me, and for all of us who have worked in that special field.

Honourable senators, Jim Travers for me was a wonderful person. We worked on the road together. What happened on the road will stay on the road. What happens here, stays here. I hope my honourable friends will be able to attend this event, which will be memorable, moving and fitting to Jim himself.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before calling on the next honourable senator for a statement, I wish to draw the attention of all honourable senators to the presence in the South Gallery of a distinguished group of fine cadets from Oakville, Ontario, who showed their wisdom by arriving in the Senate on March 14, thus to avoid the ideo of March where the Senate does not have a perfect reputation.

I wonder if the cadets will stand to be recognized by honourable senators.

Hon. Senators: Here, here!

[Translation]

MRS. FLORA THIBODEAU

CONGRATULATIONS ON ONE HUNDRED AND ELEVENTH BIRTHDAY

Hon. Rose-May Poirier: Honourable senators, on March 20, 1901, during the worst storm of the year, Flora Thibodeau was born in Rogersville, New Brunswick. Next week, she will celebrate her 111th birthday.

Last year, on the occasion of her birthday, I had the honour of telling you about this remarkable individual and highlighting her many accomplishments. Today I would like to share more information about the life and times of the oldest person born in New Brunswick: Flora Thibodeau.

[English]

I had the honour of visiting Ms. Thibodeau again a few weeks ago. What remains amazing is that she still lives in her own home and only receives about five hours a day of home care. She walks with the help of a walker and listens to the radio to keep up to date on all the news of the day.

Honourable senators, speaking with her is like hearing a living history book. She remembers the first of many things becoming a part of our lives, as well as many important events that occurred in the past 100 years. To name a few, she remembers the first automobile rumbling down the streets in Rogersville; the first toilet, bathtub, refrigerator, telephone and TV, let alone computer, microwave and video games. She also remembers the First World War and the Second World War, the sinking of the *Titanic* in the Atlantic, and she talks to me about the fear the local people had when the First World War was declared. People did not have TVs or radios very much and could not understand what was happening. The only newspaper available was *L'Evangeline*, which at that time did not have a lot of news beyond New Brunswick, and many did not even have access to the newspapers.

[Translation]

Ms. Thibodeau is the eldest of a family of six children. She had one sister, four brothers and three half-sisters. Ms. Thibodeau has seven children, six of whom are still with us. Her children are spread out across Canada and the United States. She has 17 grandchildren, 27 great-grandchildren and five great-great-grandchildren. About a month ago, a baby girl became the first member of the sixth generation of Ms. Thibodeau's family.

[English]

As a young child she remembers that Christmas was different than today. They had no Christmas trees but would all hang stockings on their bedroom doors. In the morning, it was a great joy to wake up and receive an orange in their stocking as a gift, as this was the only one that they would eat during the whole year. She remembers that her mother would also make them a special treat of toffee made from molasses.

As a young girl, she went to school in Rogersville until the ninth grade, which was the highest level offered at that time. From there, she went to Fredericton to train for six months to get her Class III licence so that she was able to teach up to the level of grade 8. She was a teacher from the age of 18 to 24.

In 1927, she stopped teaching when she got married. Her husband was a provincial police officer and they lived in Caraquet for a while. Once her husband lost a job for reasons unknown, they moved back to Rogersville and opened a grocery store in their own home. A few years later, at the age of 41, her husband passed away. Her seven children at the time were between the ages of 1 and 13.

Upon her husband's death she closed the grocery store and replaced it later with a second-hand clothing store. At first she supported her family with a small farm consisting of one cow, one horse and some chickens. She sold butter that she made and

received a pension of \$5 per month per child to support her family, which she says was a lot of money back then.

Later, she became the first woman manager of the local Caisse populaire branch. During those days, it cost 25 cents to become a member and the most that they would lend to a person was \$100. She was also a telephone operator and worked at the local co-op store —

[Translation]

The Hon. the Speaker: Order. I regret to inform the honourable senator that her time is up.

[English]

Senator Poirier: To be continued tomorrow, please.

• (1350)

THE LATE MR. LANIER PHILLIPS

Hon. Norman E. Doyle: Honourable senators, about three weeks ago I had the honour of representing the Government of Canada at a ceremony in a little community on the Burin Peninsula of Newfoundland and Labrador.

It was a ceremony to mark the sinking of the American destroyer *Truxtun* and supply ship *Pollux* on February 18, 1942, just off the shores of St. Lawrence, Newfoundland and Labrador. Two hundred and three officers and crew lost their lives. Residents of the little towns managed to rescue 186 sailors.

When I went to those little communities of St. Lawrence and Lawn a few weeks ago it was indeed to mark the occasion, but I also wanted the opportunity to meet one of the survivors, Mr. Lanier Phillips. Mr. Phillips spoke eloquently of his experience on that terrible evening, so it was indeed a great shock to the people of Newfoundland and especially to the community of St. Lawrence to learn of his passing two days ago. Today Lanier Phillips would have been 89 years old.

In 1942, when his ship went down, the U.S. Navy was segregated. Of the 46 survivors from the destroyer *Truxtun*, one was Black. Mr. Phillips would often relate the story that when he was rescued by the townspeople of St. Lawrence and Lawn they treated him with the same respect and kindness as the White survivors. He said he woke up in a room, surrounded by a group of White women who were bathing him. Many of the rescued sailors had jumped into the cold ocean waters, which were covered with a layer of heavy bunker crude oil that coated every man. He said all were in dire need of cleaning.

Phillips noted that the women in St. Lawrence who were helping with the rescue had never seen an African American before and were puzzled that the crude oil seemed to have soaked his skin to the point of colouring it. One woman was determined, said Phillips, to scrub it off, and he had to tell her, "No ma'am, that's the colour of my skin."

This is indeed a humorous story, but not unusual considering the lack of communications in Newfoundland and Labrador 70 years ago in 1942.

[Senator Poirier]

What is really important of course is that this event in St. Lawrence galvanized Lanier Phillips to fight racial discrimination within the U.S. Navy. He later became the navy's first Black sonar technician, and after completing 20 years in the U.S. Navy he joined the exploration team of Jacques Cousteau. He helped find and uncover a sunken atomic bomb, became active in the civil rights movement and started to travel in order to speak to young men and women in the U.S. military about the destructiveness of bigotry and racism. He would often say, "The people of St. Lawrence changed my way of thinking, and it erased all the hatred within me."

Phillips told the CBC last month that because of the tragedy he joined up with Dr. Martin Luther King. "I just had to join up," he said, "because of the change they made in me in St. Lawrence."

Phillips was given honorary membership in the Order of Newfoundland and Labrador and an honorary Doctor of Laws from Memorial University. The story of Lanier Phillips has been told many times in plays and television documentaries. The comedian, Bill Cosby, who was stationed in Newfoundland for a period in the 1950s, said it best when he heard the story:

But trying to scrub it off and clean it . . . turns out to be not a novelty story as much as a story about a change that comes to a human being because of a difference in the way the human being is treated, and how it opens up very positive feelings in a human being.

Our deep condolences go out to the family of Lanier Phillips.

WOMEN WHO LIVE IN CONFLICT REGIONS

Hon. Mobina S.B. Jaffer: Honourable senators, last week the international community celebrated International Women's Day. Today I would like to pay tribute to all senators, past and present, who work hard to improve the lives of people living in Canada and abroad. I would like to take this opportunity to recognize all your hard work and salute you for your service to our country and to the international community.

Although we have made great strides towards bettering the lives of women both in Canada and abroad, I am sure you will agree there is a lot that still needs to be done. I think it is important that we remain mindful of the challenges women are forced to face and the unfortunate realities that confront them in their day-to-day lives.

Yesterday evening we all received a poem from a woman named Miriam Katawazi. Today I would like to take a moment to share this poem and pay tribute to women, not like ourselves, who live in conflict-ridden areas and must endure the loss of their child, which is undoubtedly the worst pain a mother can suffer — a pain that can never, ever heal. The poem is titled *The Boy in the Red Pyjamas*.

It's getting late and the kids are hungry
She already sold all her valuables and was left with
no money
So she asked her little prince to go to his bed

Hoping sleep would allow him to escape the hunger
in his head
She watches as his little legs carry him
And she thinks to himself how she loves his every limb
Once he is fast asleep on his homely bed like thing
She cries herself to sleep and stares at her wedding ring
She felt joy in the fact that she still had something to sell
To allow her child to escape at least tomorrow's hell
The next morning . . .
A piercing blood shot cry wakes up all of Afghanistan
That shakes the heart of even the most pitiless man
A little boy in red pyjamas lies in the arms of his mother
Who's nothing but a clump of blue burka shivering
like no other
Locals gather around her silent because their words
hold no meaning
It's what they've been hold told and it's what they
have been seeing
The boy in the red pyjamas is just a number
One of the many who were shot in their slumber
And if you listen closely,
By muting out all the nonsense the media sings
You will hear the mother's piercing blood shot
cry across the ocean
You will feel the earth shake when they lower the boy
in the red pyjamas into his grave
Because even the earth's soul breaks when it sees
his little bloody hand

Touch his mother's blistered fingers for the last time . . .

CANADA-UNITED STATES AIR QUALITY AGREEMENT

Hon. David Tkachuk: Honourable senators, in the history of diplomatic negotiations between two countries, rarely does the resolution of a vexing issue prove to be equally rewarding to both sides. I want to draw your attention to such a success story.

Yesterday, March 13, marked the twenty-first anniversary of the signing of the Canada-U.S. Air Quality Agreement, otherwise known as the acid rain treaty. In discussions of Canada's international achievements in the late 1980s and early 1990s, the acid rain treaty — the culmination of years of persistent diplomatic interventions by the government of the Right Honourable Brian Mulroney — often takes a back seat to the signing of the Canada-U.S. Free Trade Agreement and Brian Mulroney's influential role in ending apartheid in South Africa. For many, though, it is on par with those accomplishments and lined up against the achievements of any other Prime Minister since 1867.

Honourable senators, in an April 7, 1987, entry in the former prime minister's personal journal, a meeting in Ottawa with President Reagan and other U.S. officials is mentioned. This entry speaks to Prime Minister Mulroney's dogged approach to advancing Canada's interests against the equally dogged stances of our friends to the south. The former prime minister stated, as recounted in his published memoirs:

I hit hard — very hard — on Arctic sovereignty, acid rain, and trade. Perrin Beatty, who was attending his first such meeting . . . said to Masse, Joe, and Gotlieb etc., afterward: "I had no idea the PM was so direct and tough in these meetings."

In the same entry, the former Prime Minister gave the following assessment:

Trudeau, of course, used to snipe away in public but was always ineffective in private with the Americans. But Canadians got the impression he was tough with them when the reverse was true. I suffer from the problem of friendship. Because I favour civilized relations and do not go in for knee-capping friends, the Canadian press assume I am no less cordial in private. They would be astonished at what I actually say and do. My only interest is the advancement of Canada's interests.

Honourable senators, I also wish to note that on this anniversary of the acid rain treaty, it was also revealed that the Right Honourable Brian Mulroney will become an international recipient of the Horatio Alger Award for 2012. This is an award bestowed annually by the U.S.-based Horatio Alger Association that recognizes "individuals in our society whose courage and determination allowed them to overcome the challenges they faced early in their lives and achieve success in their fields."

The Horatio Alger Association notes that Mr. Mulroney, 72, grew up as an electrician's son on Quebec's remote north shore, went on to become Canada's eighteenth prime minister, overseeing the adoption of the Canada-U.S. Free Trade Agreement, amongst other accomplishments, and what accomplishments they were.

• (1400)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, just before calling for tabling of documents, I wish to draw your attention to the presence in the gallery of guests of the Honourable Senator Mahovlich, in the persons of the Per Matthews family. On behalf of all honourable senators, welcome to the Senate of Canada.

Hon. Senators: Hear, hear.

ROUTINE PROCEEDINGS

PROTECTING AIR SERVICE BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-33, An Act to provide for the continuation and resumption of air service operations.

(Bill read first time.)

[Senator Tkachuk]

[Translation]

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(f), I move that the bill be placed on the Orders of the Day for second reading later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(On motion of Senator Carignan, bill placed on Orders of the Day for second reading later this day.)

CANADIAN NATO PARLIAMENTARY ASSOCIATION

ROSE-ROTH SEMINAR, JUNE 21-24, 2011—
REPORT TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Canadian NATO Parliamentary Association respecting its participation at the 77th Rose-Roth Seminar, held June 21 to 24, 2011, in Tromsø, Norway.

[English]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

ANNUAL MEETING OF THE NATIONAL GOVERNORS'
ASSOCIATION, JULY 15-17, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group to the 2011 Annual Meeting of the National Governors' Association, held in Salt Lake City, Utah, United States of America, from July 15 to 17, 2011.

ANNUAL MEETING OF THE SOUTHERN
GOVERNORS' ASSOCIATION,
AUGUST 19-21, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group to the Seventy-Seventh Annual Meeting of the Southern Governors' Association, held in Asheville, North Carolina, United States of America, from August 19 to 21, 2011.

[Translation]

TRANSPORT AND COMMUNICATIONS

NOTICE OF MOTION TO EXTEND DATE OF FINAL REPORT ON STUDY OF EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY

Hon. Dennis Dawson: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on June 15, 2011, the date for the presentation of the final report by the Standing Senate Committee on Transport and Communications on emerging issues related to the Canadian airline industry be extended from June 28, 2012 to November 30, 2012.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

F-35 AIRCRAFT PURCHASE

Hon. Wilfred P. Moore: Honourable senators, my question is for the Leader of the Government in the Senate. Honourable senators, yesterday Julian Fantino, the assistant defence minister for procurement, surprisingly announced that Canada might back out of the F-35 fighter airplane program, this after five years of tough talk and attacks on the opposition for not supporting our troops. The price for the last batch of F-35s came to over \$200 million per unit. A large part of the minister's nervous admission that the government could back out of the program has to be the spiraling cost of aircraft.

What is the price per unit that this government has concluded will be the highest price we are willing to pay per airplane?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the media reports that we are abandoning the F-35 program are erroneous. Canada has been a partner in the F-35 program now for 15 years. We have set a budget to replace Canada's aging CF-18s and we will operate within that budget. However — and I think this is the source of some of the misinformation in the media — a contract has not been signed, but we will ensure that the air force has the aircraft necessary to do the job that we ask of them, especially when the CF-18s' life has come to an end.

With regard to the honourable senator's specific question of cost per unit, I will take that question as notice.

Senator Moore: I have a supplementary question. How many planes do we now plan to purchase, given this ballooned purchase price? What would be the number of aircraft that we will need to meet our commitments at home and abroad?

Senator LeBreton: Honourable senators, the Department of National Defence and the Associate Minister of National Defence, Mr. Fantino, have always said that we have a budget set aside for the procurement of aircraft. Therefore, I cannot definitively answer the honourable senator's question as to the number of aircraft. I just cannot answer that, honourable senators. I do not know whether that information is available, but I would be happy to try to find out.

Senator Moore: I have another supplementary question. Maybe the leader could take that under advisement and come back with an answer.

I understood that the amount of funds set aside for this procurement was \$9 billion. In view of the fact that the minister has indicated that the government is looking at the possibility of backing out — he did not say they were backing out, but he said it is something they have to consider — does the government have a backup plan? The F-18s are scheduled to retire in 2018. Could the leader tell us what the backup plan would be?

Senator LeBreton: I think it is clear, honourable senators, that we do know one thing: In another five years or so, the CF-18s will be at the end of their life cycle. The government is still part of the program for the F-35s.

The honourable senator has asked similar questions before and I believe I have submitted some written answers on these. I will take the question as notice and try to provide the honourable senator with more information.

[Translation]

Hon. Roméo Antonius Dallaire: Honourable senators, can the Leader of the Government tell us if, considering the scenario presented yesterday and all the concerns surrounding this aircraft, the procurement plan could simply be postponed? In other words, could we take the money earmarked for that purchase and set it aside for a few years, instead of making a decision right away? Is that the decision you plan to make?

[English]

Senator LeBreton: Honourable senators, I think it has been clear all along that we will make sure that the air force has the aircraft necessary to do the job that we ask of them. At the moment there is much speculation around the F-35s. I just answered to Senator Moore that we have been part of this program for 15 years. We do have a budget and we will operate within that budget.

• (1410)

Contracts have not been signed, but we have been part of the program now for 15 years, and Canadian companies are involved in the work and construction of this aircraft.

Senator Dallaire: As I understand that answer, the leader is not aware that the project is actually being shifted to the right to delay the delivery of those systems when we know that a number of the F-18s can go beyond the year 2020.

Senator LeBreton: I think I answered the question already.

The government will make sure that the air force has the equipment required. In the six years we have been in government we have certainly lived up to our commitment to the Armed Forces. We have absolutely no intention of doing otherwise, and we will make absolutely certain that the air force has the equipment and the proper fighters to do the job that we ask of them and that they do so well.

Hon. James S. Cowan (Leader of the Opposition): I have a supplementary arising out of the questions of my colleagues Senator Moore and Senator Dallaire. The leader has repeatedly said that by 2020 the government will ensure that the air force has the equipment they need. The minister himself is speculating now that the F-35s may not be the ones that will be used.

Can the leader assure us that there is a backup plan to ensure that the Armed Forces will have this equipment, and will she give us details as to what that backup plan might be?

Senator LeBreton: I do not believe the minister speculated any such thing. I believe that is media speculation, and my answer stands. We have been in this program for 15 years, which was started by the previous government. Of course contracts have not been signed, and we will ensure that when the CF-18s have lived their full life cycle, the air force has the proper equipment. That is all I can say for the moment.

Senator Cowan: The leader has repeatedly said that we will have the equipment in place by 2020, when the CF-18s reach the end of their useful life. She has said that the contracts have not been signed for the replacement aircraft.

I think any fair reading or hearing of what the minister said was that he is not as sure as he professed to be in the months previous to this point that they would be signed. All we are asking for is an assurance that, yes, this contract will be signed and that is the aircraft we will go with. If that is not the case, what is the backup plan? Will the honourable senator undertake to find out what the backup plan is and report back to us?

Senator LeBreton: All I can say is we have responsible people in our military and in the Department of National Defence. The only thing I can say at this point in time, honourable senators, is that the government, working with our partners, will make sure that the air force has the necessary aircraft to do the job asked of them.

This is the year 2012. I am quite sure that when the Minister of National Defence and the Associate Minister of National Defence have further information on this that they can share with the public, they will do so.

Senator Cowan: Perhaps we could approach it this way: Leaving aside the identity of the aircraft, could the leader provide us with a timeline from the date of a contract signing to the delivery of a prototype aircraft, to operational aircraft, to the delivery of the replacement aircraft, working back from the 2020 deadline? Would she provide us with that schedule so we will know, leaving

aside the identity of the aircraft, how long in advance is it necessary to sign a contract with a supplier for an aircraft?

Senator LeBreton: We have seen contracts signed and broken in the past, and I am quite certain that that will not happen this time.

I can only tell honourable senators what I have already said, that we are part of this program, which has been going on for 15 years. We will ensure that our air force has the proper equipment, and when the Minister of National Defence and the Associate Minister of National Defence have some further information to share on this, I am quite confident that we will be the first to know.

Senator Moore: On February 27 I was in Washington, D.C., and I had a conversation with Mr. Bill Dalson, who is the president for the Americas region of Lockheed Martin, the sole provider of this F-35 aircraft. The leader might recall I asked questions a couple of weeks ago with regard to the cyber theft in China discovered by Lockheed Martin three years ago, which caused a substantial increase in the price of this aircraft. I asked him — as I asked the leader — whether, when Lockheed Martin discovered that cyber theft, they advised Canada. He would not say that they did.

Does the leader have any information on that, and can she tell the chamber whether or not Lockheed Martin advised Canada, whether it was a minister or somebody appropriate in government, of this cyber theft?

Senator LeBreton: I thank the honourable senator for the question. Senator Moore did ask me that question a month or two ago and I took the question as notice.

I believe I will have a response to his specific question within the next day or so. I cannot add more than that. I think we will have to wait for a response to the question that we have already posed to the Department of National Defence. Perhaps, after Senator Moore has received that answer, he will see whether the question needs further clarification.

HEALTH

DRUG SHORTAGES

Hon. Jane Cordy: There is great concern among Canadians about the increasing number of drug shortages in Canada. Sandoz, the Canadian drug manufacturing company, was told by the U.S. FDA in July of 2009 that it had breached manufacturing standards regarding aseptic and contamination processes regarding crystallization in intravenous products. However, the minister who stated that the department inspects plants did not bother to follow up on this at the time. The fact that the minister says that she found out about the concerns and the possible shortage of drugs only in November of 2011 is frightening.

In 2010, the Canadian Pharmacists Association wrote a report warning of drug shortages. At that time, over 90 per cent of pharmacists said they were having trouble with drug shortages. More than a year ago, about 74 per cent of Canadian doctors said they were encountering shortages of generic drugs.

What did the minister do? She set up a voluntary system. Why? Why is this minister not showing any leadership? Why is this minister not standing up for Canadians?

Hon. Marjory LeBreton (Leader of the Government): Minister Aglukkaq does show great leadership and does stand up for Canadians. She and her department have been working 24-7 to support the provinces and territories, which, of course, are directly responsible to the patients and their families. Obviously the provinces and territories are in the best position to deal with this.

Let us be very clear here: This shortage is a direct result of the decision of the provinces and territories to sole source many drug contracts. This is a provincial responsibility through Sandoz Canada.

We have been very clear. We have been doing everything we can to assist the provinces. We have been very clear that we will work with all stakeholders to find short- and long-term solutions to this serious situation.

The fact of the matter is, honourable senators, the Minister of Health has been working very hard with her provincial and territorial partners to assist them in addressing these shortages.

Senator Cordy: We will definitely have to agree to disagree about whether the minister is showing leadership. I find that she is not. She is not standing up for Canadians.

An Hon. Senator: Right on.

Senator Cordy: What this minister seems to do continuously is when something happens she immediately blames someone else. For her first few years as minister she blamed the Liberal majority in the Senate, but she cannot do that anymore. She is blaming the provinces and the territories for the drug shortages.

Yesterday I asked a question about mental health. At that time I said the Government of Canada is the fifth largest provider of health care in this country. It provides health care for the military, the RCMP, Aboriginals, and inmates.

• (1420)

It is not just the provinces and the territories that have a responsibility. It is the federal government. The federal government is responsible for the implementation of the Canada Health Act with respect to accessibility and universality. Regardless of your ability to pay or where you live, you should have access to the Canadian health care system.

Canadians do not have access to drugs. It is becoming a problem, and it is not an isolated incident. We had issue of isotopes not that long ago. The pharmacists of Canada recognized this red flag. The doctors have red flagged it.

Currently, the minister has put in place a voluntary reporting of shortages of pharmaceuticals. There is no formal mechanism in place to let Canadians know about possible shortages unless companies voluntarily report it.

How are Canadians getting their information? It is certainly not from Minister Aglukkaq, the Minister of Health. In fact, we are getting our information from television, radio and newspapers. I listened to the head of the Canadian Medical Association this morning talk about how he was getting his information. He said he is not getting it from the minister or the Department of Health. He is getting it from reading newspapers, watching television and listening to radios.

Senator Eaton: Question?

Senator Cordy: That is pretty pathetic.

An Hon. Senator: Question?

Senator Cordy: When will the minister bring in a more formal mechanism for Canadians to know about the shortages of drugs? More importantly, when will she examine the issue of drug shortages and put a plan in place to reduce such incidents?

Senator LeBreton: First of all, I absolutely disagree with the honourable senator's assessment of Minister Aglukkaq. She has taken great leadership on a number of issues, starting with H1N1. Obviously, the situation with Sandoz is because of the decision to buy from one supplier.

The honourable senator asked what Minister Aglukkaq has been doing. She has been working on the issue of drug shortages since last summer. In the Department of Health, a group has been working with industry and stakeholders to ensure that Canadians are informed of potential shortages. That is always a concern to anyone involved in the health care field. I would not put a lot of stake in everything one hears on the radio. The fact of the matter is the Minister of Health zeroed in on this problem months ago. They have been working on it in Health Canada.

With regard to Sandoz, the minister has received a letter from the company stating that they will meet her demand for more accountability and post information about the drug shortages. They said they would also give 90 days' notice of any other drug shortage that may arise in the future.

It is quite unfair and incorrect to say that this is something the minister has only seized on as of this latest event occurring. That is absolutely flat out wrong.

Senator Cordy: Will the minister put something in place so that it is not voluntary but mandatory that drug companies give notification of shortages?

Senator LeBreton: Honourable senators, as I said earlier, the mistake was the decision to sole source. We have seen that before. We saw the same situation with H1N1 and the decision of the provinces, and the Minister of Health is not blaming the provinces. This is not blaming; it is just stating a simple fact. The minister recognized the potential problem months ago and has been working on various solutions to the problem since last summer.

ENVIRONMENT

CLIMATE CHANGE

Hon. Grant Mitchell: Honourable senators, oh, my gosh. In what can only be described as an absolutely breathtaking tour de force, unparalleled in the annals of parliamentary debate, yesterday, in the space of less than an hour, the Conservatives denied science, smeared any number of perfectly legitimate Canadian charities and, ultimately, suggested that Canadian environmental groups would be accepting money from al Qaeda and the Martians.

Speaking of outer space — Earth to Conservatives — Earth to Conservatives — could the Leader of the Government in the Senate please tell us if anybody actually read those speeches before they delivered them?

Some Hon. Senators: Hear, hear!

Hon. Marjory LeBreton (Leader of the Government): The small mindedness of the honourable senator's rhetoric is only outsized by his own size.

Senator Mitchell: Whoever wrote those speeches, could you put them on our payroll because they are doing us a lot of good.

Is Senator Greene Raine's speech denying the science of climate change — perhaps more articulately than I have ever heard it denied before — confirmation of the government's real feelings about climate change, or is it a confirmation of a fundamental shift in the government's position on climate change, or is it just the musings of a lost senator disagreeing fundamentally with her Prime Minister, her Minister of the Environment and with her own government's stated position on climate change?

Senator LeBreton: The one thing I like about Senator Mitchell is you can see his questions coming from a mile away.

The fact of the matter is we have a debate in this Senate, and the senators on this side are very strong individuals. They get up and speak their views freely, and I think they should be applauded for it.

An Hon. Senator: Oh, right!

Senator Mitchell: They do speak their views freely, and sometimes the government contradicts them. Sometimes the Prime Minister's Office clearly contradicts them and puts them off, puts them back and disagrees with them, like they did in the case of capital punishment and the statements by Senator Boisvenu.

That is not the case here. In fact, the Prime Minister's Office said, "We're not going to comment." Does that mean that the Prime Minister's Office is actually accepting this idle rhetoric of climate change denial and science denial by Senator Greene Raine?

Senator LeBreton: I do not know what the honourable senator was reading, but anything I saw coming out of the Prime Minister's Office with regard to Senator Boisvenu was complete admiration and support for the great courage he has shown in fighting for victims.

Senator Mitchell: What kind of government would suggest that absolutely legitimate charitable groups like the Suzuki Foundation, like the Sierra Club Foundation, are muddling —

An Hon. Senator: Shame!

Senator Mitchell: — are muddling or meddling in public policy debate in this country, when they exclude groups like the Fraser Institute, which clearly takes international money, which clearly is a charity and which clearly meddles and muddles in public policy debate in this country every waking moment of their existence?

Senator LeBreton: What kind of a senator comes here week after week after week and works against the interests of his own province?

An Hon. Senator: Oh, oh!

Senator LeBreton: Furthermore, the honourable senator obviously has strong views on that. I invite him to participate in the debate.

An Hon. Senator: He did.

Senator Mitchell: Is the leader not aware that, fundamentally, many, if not most — if not practically all — Albertans have a fundamental belief that the environment needs to be protected and that it is not inconsistent with support for the oil sands and their impact on economic development all across this country? Can you not get that you can walk and chew gum at the same time on these important issues?

Senator LeBreton: The fact of the matter is that this government has a far superior record on the environment than the honourable senator's government ever did.

Some Hon. Senators: Hear, hear.

GOVERNOR GENERAL

DIAMOND JUBILEE MEDAL NOMINATIONS

Hon. Terry M. Mercer: Honourable senators, I hate to change the channel; we were doing so well there.

Honourable senators, Diamond Jubilee medals will be awarded to over 60,000 deserving Canadians over the next year. While we and the members of the other place can nominate anyone, there are also almost 200 organizations in several different categories across Canada that can nominate.

In the social and volunteer sector, there are organizations such as Big Brothers Big Sisters, Volunteer Canada, and my old employer, the YMCA.

• (1430)

Then there is also REAL Women. REAL Women is a well-known, socially conservative organization that has made very interesting comments on such things as abortion, contraception, gay marriage and gay rights. Can the leader kindly tell us why a group known for its biased views of one group of people in society over another would be asked to nominate for such a prestigious award?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I have no idea. All I know is that all of us have been invited to participate in the awarding of the Diamond Jubilee Medal. Many Canadians from many organizations will obviously be chosen by many of us to receive the medal.

This is an award given out on behalf of Her Majesty the Queen. I cannot respond to something over which the government has no control.

Senator Mercer: Honourable senators, if you go to their website, there is an interesting section called “Carol’s Corner.” Carol is a composite REAL Woman. Her column has been written by a number of contributors. This is them speaking:

“She” will continue to weigh in on all kinds of matters of interest to both our members and those who visit our site.

I viewed this column and in one section from December 2011, Carol comments on the columns in the *National Post* that were written about bullying, a very timely subject. I quote:

... the school boards are so gay-friendly that gays, like other, favoured, usually “multicultural” groups, can get away with practically any kind of behaviour. People walk on eggshells to be as politically correct as possible so as not to offend students, teachers, or administrators in these groups.

This is still quoting from “Carol’s Column”:

Could it be that some bullying is a result of sheer frustration on the part of the “ordinary” student, who sees that certain students are favoured?

Unbelievable. This group, REAL Women, seems to be saying that bullying could in fact be a justified response from some people.

Does the leader agree that those statements are pretty outrageous?

Senator LeBreton: Honourable senators, if I had to get up and respond, which I cannot do and am in no position to do on behalf of the government, to every column that has been written with people’s points of view, I would never be able to sit down.

This has nothing to do with the government. This has nothing to do with anything in which I am involved. Whether we agree or disagree — in this case, I have not read the article, but I am personally inclined to disagree — is not the issue. The issue is that people are free to speak their minds, and whether we agree or disagree with them is our prerogative.

I cannot get up as Leader of the Government in the Senate and answer for every column that every person on behalf of whatever group in the country has written. Honourable senators would not expect me to be able to, nor would I want to.

Senator Mercer: When the Governor General was asked about the list of groups to nominate people, he said it was not his list; it was a list put together by the government. REAL Women being on that list comes from the government.

Could the Leader of the Government in the Senate tell us, then, why no groups responsible for promoting gay rights are on the list of those who are able to nominate Canadians for Diamond Jubilee Medals?

Senator LeBreton: First, honourable senators, this does not fall within my responsibility as Leader of the Government in the Senate. I do not know who is on the list. I do not know which organizations are on the list. I have personal friends who belong to Egale. I will probably nominate a couple of them myself when I submit my list, but that is my own personal decision. I cannot answer for something I know nothing about.

Hon. Grant Mitchell: By way of supplementary question, in the new definition of accepted charities that the government is working on, will groups like REAL Women who put down young gay people still be able to maintain their charitable status and meddle in the public policy debate on that important issue?

Senator LeBreton: That question is out of order because I am in no position to answer on behalf of any organization, whether it is Egale, REAL Women or whomever.

[Translation]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that when we proceed with government business, the Senate will address the items in the following order: second reading of Bill C-33, followed by all other items according to the order in which they appear on the Order Paper.

PROTECTING AIR SERVICE BILL

DECLARATIONS OF PRIVATE INTEREST

Hon. Marie-P. Poulin: I wish to inform honourable senators that I will not take part in the debate on Bill C-33, An Act to provide for the continuation and resumption of air service operations, in order to avoid any possible perceived conflict of interest.

The Hon. the Speaker: Honourable senators, Senator Poulin has made a declaration of private interest regarding Bill C-33 and, in accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

[English]

Hon. Pana Merchant: Honourable senators, I believe my husband, E.F. Anthony Merchant, has a private interest through litigation that might be affected by the matter currently before the Senate, and I therefore make a declaration of private interest.

The Hon. the Speaker: Honourable senators, the Honourable Senator Merchant has made a declaration of private interest regarding Bill C-33 and, in accordance with rule 32.1, the declaration shall be reported in the *Journals of the Senate*.

Hon. Pamela Wallin: Honourable senators, I, too, would like to make a declaration of private interest on this matter as I serve on the board of Porter Airlines.

The Hon. the Speaker: Honourable senators, the Honourable Senator Wallin has made a declaration of private interest regarding Bill C-33. In accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

[Translation]

SECOND READING

Hon. Claude Carignan (Deputy Leader of the Government) moved the second reading of Bill C-33, An Act to provide for the continuation and resumption of air service operations.

He said: Honourable senators, since March 6, Canadians have been living in uncertainty, worried about the consequences of the labour dispute between Air Canada and its pilots and its technical, maintenance and operational support employees.

I would like to give some background information about the two disputes in question in order to convince my colleagues of the merits of this bill, which provides for the continuation of Air Canada's air service operations.

One dispute involves Air Canada and its 3,000 pilots, who are represented by the Air Canada Pilots Association, and the other involves Air Canada and its 8,200 technical, maintenance and operational support employees, who are represented by the International Association of Machinists and Aerospace Workers.

[English]

Honourable senators, first let me talk about Air Canada's pilots, and then I will address the case for machinists and baggage handlers.

• (1440)

Air Canada's collective bargaining agreement for pilots ended almost one year ago, on March 31, 2011. A few weeks before that date, the parties had concluded an agreement in principle, subject to a ratification vote by union members.

[Translation]

A few months later, in May 2011, the Air Canada Pilots Association informed the employer that its members voted against the agreement that was presented to them. Negotiations resumed but did not go anywhere. That is when Air Canada brought in the Federal Mediation and Conciliation Service.

The Federal Mediation and Conciliation Service was established to provide dispute resolution and prevention assistance to employers and unions under the jurisdiction of the Canada Labour Code. It offers employers and unionized employees tools for resolving disputes through the services of conciliation and mediation officers. The mandate of these third parties is to assist both parties in reaching a mutual agreement.

In the case of the dispute between Air Canada and its pilots, the Service first appointed a conciliator who provided support to the parties until January 2012. A mediator was then appointed who worked with both parties for two weeks, from late January to early February, but still no agreement was reached.

I would like to point out, honourable senators, that we have reached mid-February in the timeline of this dispute. It was around that time that members of the 'pilots' union voted 97 per cent in favour of a strike.

[English]

At that time, the Minister of Labour met with the employer and union representatives and offered the services of two new co-mediators for a six-month period to help the parties resolve their differences. The parties accepted this offer.

Finally, on March 8, the Minister of Labour received a lockout notice from the employer.

[Translation]

Let us now go through the background of the dispute between Air Canada and the 8,200 technical, maintenance and operational support employees, represented by the International Association of Machinists and Aerospace Workers. They are responsible for equipment maintenance and operational services, including maintaining the cabins, cleaning the planes, handling baggage and purchasing and distributing parts and supplies. They play a key role in the airline's operations.

Their collective agreement expired on March 31, 2011. Negotiating a collective agreement for this group is just as demanding as for the pilots. Last December, Air Canada sent a notice of dispute to the Federal Mediation and Conciliation Service. Before the end of 2011, a conciliation commissioner was appointed to help the parties in their negotiations. Six weeks later, on February 10, 2012, the parties reached an agreement in principle with help from the conciliation commissioner, subject to a ratification vote by the union members.

[English]

At the end of February, the union announced that its members had rejected the agreement in principle by 65.6 per cent and voted in favour of a strike mandate by 78 per cent.

On March 6, the union sent out a strike notice indicating its intention to launch a legal strike on March 12, at 12:01 a.m.

[Translation]

In both cases, negotiations have been under way for nearly a year and have received support from resources at the Federal Mediation and Conciliation Service, but with no results.

On March 8, the Minister of Labour decided to refer the matter of the continuation of air service operations at Air Canada to the Canada Industrial Relations Board. She asked the board to review the situation at Air Canada to ensure that a work stoppage would not threaten public health and safety. The board is a quasi-judicial, independent, representational tribunal that is charged with interpreting and administering the provisions of the Canada Labour Code, Part I, on collective bargaining and unfair labour practices.

Under the Canada Labour Code, upon referral by the Minister of Labour during a labour dispute, the Canada Industrial Relations Board may issue binding orders with respect to the continuation of activities to ensure that a work stoppage does not threaten public safety or health. Both the unions and the employer must continue their normal work activities until the board makes a decision about the continuation of activities. This review by the board is continuing as we in the Senate and our colleagues in the House are reviewing this bill.

My goal today was to explain the background of the two disputes in question, so that honourable senators understand the context in which the federal government drafted the bill for the continuation of air service operations at Air Canada.

[English]

Honourable senators, it would be completely irresponsible for members of Parliament and senators to sit back and do nothing, to let the differences I mentioned earlier get worse, and to risk an economic slowdown just when our economy is showing signs of recovery.

Yes, honourable senators, it would have been better for the parties to resolve their own differences.

[Translation]

Every effort has been made to help the parties resolve their differences. There is no sign of resolution. Honourable senators, let us support this bill, which will ensure the continuation of air service operations and maintain the viability of the Canadian economy.

[English]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, we on this side have grave concerns about the approach this government has taken, not only this time but on several other

occasions with respect to back-to-work legislation. Each time, they seem to be jumping sooner and sooner. We have concerns about the effect that this has on the collective bargaining process and on the well-established relationship between labour and management in this country.

We have an opportunity this afternoon to hear from the minister with respect to the timing, and we have an opportunity to discuss with representatives of labour and management the issues that are at stake here, why they have reached this impasse, whether this is or is not an appropriate method to force a settlement, and whether it is an appropriate time to force a settlement.

I listened to what my friend Senator Carignan has said this afternoon, and I think he has done an admirable job in tracing the chronology of events that have taken place. However, it does not really address the underlying issue of whether this is the right method at the right time to deal with this matter.

I want to have the opportunity to explore this issue with senators on both sides of the chamber, with the witnesses who will be here this afternoon, and I will speak to it during debate tomorrow afternoon.

The Hon. the Speaker: Are honourable senators ready for the question?

On debate.

Hon. Terry M. Mercer: Honourable senators, I am dismayed by this blatant, continued attack by the Conservative government on the trade union movement in this country. Time and time again, good people who are members of trade unions across this country are being attacked by this government. Particularly if they are in something close to a public service union, they are on a bit of a Conservative "hit list." We will see more of this as time goes on. I predict that when the budget comes down later this month, they will be attacking some good people in public service unions all across the country.

I am a bit miffed. Did I miss something? Is Air Canada on strike; has Air Canada been locked out? I am not aware of this happening.

• (1450)

We are saying to any union or any company that we think is important — or whose service is important — that we will abort the collective bargaining rights of the thousands of employees of Air Canada who have fought long and hard. This is not a union that has been getting great increases over the past number of years. This is a union who has gone to the wall for the company. They have made the sacrifice — a sacrifice that many other people have never been willing to make — of cutting their salaries so the company could stay afloat and of doing things within the company to make sure that Air Canada is the viable operation that it is today.

As well, honourable senators, just this past Monday, as I got on a plane in Halifax to come here to participate in this debate, I got a note from the pilots, as everyone on the plane did. There was a little note in our seats telling us exactly their opinion. They said they wanted to stay at the table, they did not want to strike, and

they did not want to be locked out. They wanted to sit down and they wanted to negotiate an honest agreement with their employer.

What is the problem here? The union says it wants to negotiate and they are willing to sit down and negotiate today.

Senator Duffy: Which union?

Senator Mercer: All of the unions, Senator Duffy. We are talking specifically about the pilots' union. The pilots' union has said they would sit down and negotiate today, and sit down they should. The issue is that these people have total disregard for the trade unions.

I will admit there is a tendency — actually an addiction on that side — to appeal only to their base. They will continue to appeal to the right wingers, to the anti-gun control people and all of those people. Letters will come flying out of the fundraising arm of the Conservative Party for the anti-union people. We will see all of that.

You know what, honourable senators? Most of the people who are trade unionists do not vote for them.

Senator LeBreton: Yes, they do.

Senator Mercer: They vote for my colleagues in the other place and for the New Democrats. It is another case of "If you are not with us, then we are throwing you under the first bus coming down the road." This is what they are doing. They will throw the trade unions under the bus at the very first opportunity. They have ignored the collective bargaining process that has been in place for years.

I do not remember a lot of work stoppages, honourable senators. One work stoppage at Air Canada lasted three hours. That is because they wanted to get back to work and to negotiate.

Strikes and lockouts are the last thing that the employees or employers want, but it is a tool they both must have in their arsenal. This government continues to take the ultimate tool away from trade unions and, indeed, from companies. I have spent a lot of time with trade unions, but the company has some rights that have also been aborted.

Honourable senators, I am very concerned about what will happen. This bill is being introduced without a strike. Canada Post was out for a couple of days before the government introduced that legislation. Pretty soon someone will hear a rumour at a Tim Horton's in Brandon, Manitoba, saying, "You know, they're going to go on strike down at the post office," and we will be here the following week to pass legislation based on that rumour. We should not be doing that. This should be based on facts and events that are happening today and not on some pipe dream.

Honourable senators, back to the principle, we have a process of labour negotiations in this country. It is a system that has worked for years. It is a system that should be allowed to

proceed. I look forward to the guests we will have here and to asking what I hope will be some tough questions. I would like to see some tough answers.

I, of course, will be voting against this legislation at this point.

The Hon. the Speaker: Honourable senators, are you ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Poirier, that this bill be read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Some Hon. Senators: On division.

(Motion agreed to and bill read second time, on division.)

[Translation]

COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I move that this bill be referred to Committee of the Whole immediately.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Senator Carignan: Honourable senators, I request leave to suspend the application of rule 13 today in order for the Committee of the Whole to continue sitting during the supper hour if our business is not concluded by 6:00 p.m.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Donald H. Oliver in the chair.)

The Chair: Honourable senators, the Senate is now in Committee of the Whole to consider Bill C-33, An Act to provide for the continuation and resumption of air service operations.

Honourable senators, rule 83 states that:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it agreed, honourable senators, that rule 83 be waived?

Hon. Senators: Agreed.

The Chair: Honourable senators, I ask that, pursuant to rule 81, the Honourable Lisa Raitt, Minister of Labour, be invited to participate in the proceedings of the Committee of the Whole and that government officials be authorized to accompany her.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

• (1500)

[English]

(Pursuant to rule 21 of the *Rules of the Senate*, the Honourable Lisa Raitt, Minister of Labour, and officials were escorted to seats in the Senate Chamber.)

The Chair: Minister Raitt, welcome to the Senate. I would ask you to introduce your officials and make your opening remarks. Following that, honourable senators will have questions they wish to pose to you.

The Honourable Lisa Raitt, Minister of Labour: Thank you very much, Mr. Chair. I apologize to honourable senators because I seem to have picked up a cold, so my voice will be in and out. I am happy to have the microphone to at least amplify what voice I have left.

I have with me today Hélène Gosselin, Deputy Minister of Labour; Marie-Geneviève Mounier, Assistant Deputy Minister; and Christian Beaulieu, Senior Counsel and Group Head. Thank you very much; I appreciate your time today.

Mr. Chair, whenever the government has to bring in legislation to avert a work stoppage, there are certain predictable objections that you will hear. The first is that we are misusing our powers and imposing on the right to collective bargaining. The second is that we are moving too quickly and that we should wait for matters to happen. The third is that the problem we are trying to solve is not really all that serious. I would like to point out to honourable senators today that these arguments, in our view, just do not stand up.

Since 1984 there have been 35 work stoppages in the air transportation industry, and six of them have involved Air Canada. We already have a pretty good idea of the damage that a work stoppage can do. Some of these stoppages took a heavy toll on the economy and severely disrupted the lives of Canadians. Today once again we are faced with the likelihood of a work stoppage at Air Canada; and once again it will take a toll on Canadians if it happens.

Throughout these debates, our government has provided statistics on the possible economic damage and the disruption to our fragile economic recovery. Our government's mandate is to maintain our economic recovery and act in the best interests of Canadians because we believe that is what we are here for. As I have already explained in some detail in the house, our government has followed all the rules and taken all the steps set out in the Canada Labour Code while assisting the parties in these two Air Canada disputes.

We have been assisting the parties and encouraging a deal at every step of the way. As the history of these disputes clearly shows, the parties in each case have had plenty of time to reach an agreement, and help from expert mediators and conciliators has been provided. Negotiators for the two unions, the Air Canada Pilots Association and the International Association of Machinists and Aerospace Workers, shook hands on tentative agreements at that bargaining table; but in both cases, the terms and conditions agreed to by the union representatives were rejected by their members.

Mr. Chair, I will not pretend that we are not frustrated here in our labour program to see all the hard work of negotiations lead to no deal. However, unions are democracies, and union members have a right to vote for their interests and against agreements reached by their leaders. If these two disputes were occurring in another sector of the economy, perhaps the work stoppage could play itself out without impacting the economy. However, in this case, we just cannot afford to do that. The federal government has to take action in these two disputes at Air Canada.

The first step we took, once we had received notice of strike and notice of lockout, was to send the matter of the maintenance of activities to the Canada Industrial Relations Board and ask them to determine if a work stoppage would pose a risk to the health and safety of the public. While the CIRB is considering the cases, the two parties will have to maintain full operations at Air Canada. That gives everyone a little time to cool off and reconsider the issues at hand. I had hoped that the parties would use that time to get back to the bargaining table and find better solutions.

In case they are unable to break their impasses — and over the weekend they were unable — we must proceed with Bill C-33. We are doing this in part to help Air Canada, but this is not favouritism on our part because I am not passing judgment on the merits of the airline's cases vis-à-vis the pilots' and machinists' unions. We do not pick sides at the bargaining table. That is for the arbitrator to decide, and I am not an arbitrator in this matter.

The global airline industry has been under strain, and Air Canada has been affected by many factors beyond its control. It has come close to bankruptcy on more than one occasion. Like our economy, Air Canada is in a fragile state. Like our economy, Air Canada is trying to get back on a firm footing. Mr. Chair, having disputes dragging on for almost a year does not help the matter; that is a long time. The uncertainty about these agreements has had a negative effect on Air Canada already. On the other side, I am sure that it has been very stressful for the members of the unions as well.

Pulling back from the particular disputes we are talking about today, in terms of labour relations, it has been a difficult year for Air Canada in general. In June 2011, our government tabled back-to-work legislation after there was a three-day labour disruption by Air Canada's customer service agents. The parties subsequently arrived at a process and concluded a new four-year collective agreement. They submitted to final-offer selection binding arbitration with an arbitrator of their choice.

However, our government would much rather see employers and unions arrive at an agreement themselves prior to the tabling of legislation. In September 2011, Air Canada reached an

agreement at the table with the flight attendants only to have the union membership reject it. I called the parties together, and another tentative agreement was reached at the bargaining table. I asked the head of the union, Paul Moist, if he was sure that the membership would ratify the terms of the agreement, and he confirmed they would. Unfortunately, that did not happen, and instead we received a strike notice. At that point, we referred the matter to the Canadian Industrial Relations Board. It was at that board meeting that the parties agreed to submit to arbitration and conclude their deal.

Again, the agreement was reached the hard way, but it does not have to be that way. In February, Air Canada ratified agreements with two CAW-Canada units and a Canadian Airline Dispatchers Association bargaining unit. For awhile, it looked as if there were going to be agreements between Air Canada and the pilots' and machinists' unions. Once again, the deals Air Canada reached at the table were rejected by the union membership. For anyone who is counting, that means eight tentative agreements were concluded and four of them were rejected through the six bargaining units.

Mr. Chair, the Canada Labour Code recognizes the principles of freedom of association and free collective bargaining. The CLC gives the parties in labour disputes many ways and opportunities to reach a settlement, with or without help from the federal government. At the end of the day, the Government of Canada respects the rights of the unions to strike and the rights of employers to lock out their workers.

Indeed, we prefer not to interfere in these matters unless it is absolutely necessary; and this is a special case today. When a work stoppage has the potential of impacting the national economy, the government must respond to protect the public interest. Consider the impact on jobs: Air Canada is a major employer, Mr. Chair. As of November 2011, Air Canada had 26,000 employees across the country, and 23,000 of those employees are full-time workers. To give you some context, General Motors Canada employees 9,000 full-time workers, and Chrysler employees 11,000 full-time workers. That is the sheer size of Air Canada.

• (1510)

If the airline loses too much money, the jobs could be in jeopardy. There also could be jobs lost, as a result of Air Canada's work stoppage, by their partners and suppliers. Our information is that Air Canada indirectly has 250,000 staff. That is a large number of hardworking Canadians and Canadian families who would be affected immediately by that work stoppage.

According to Transport Canada, any reduced operation at Air Canada also trickles on to Canada's airports, as well as to Air Canada's third-party suppliers. At the end of the day, the elements of the air service system are interdependent. If one element is weakened, all are vulnerable.

Up to now, the news about employment in Canada has been encouraging. We have recovered all the jobs we lost in the recession, and we have created some new ones. The question the government asks is, "Do we really want to gamble with our economy and possibly put those gains at risk?"

[Ms. Raitt]

Of course, Mr. Chair, no company will feel the impact of a work stoppage more than Air Canada itself. The last time the pilots walked off the job, in 1998, it was reported that the airline lost \$300 million. The economy was reported to have lost \$133 million. That was 1998, and today the stakes are higher.

Every day of lost business will have a dramatic impact on the bottom line of a company that has been struggling to stay solvent for most of the past decade.

In the event of a work stoppage, Air Canada services also may not easily be replaced. Many Air Canada customers do not have easy access to an alternative carrier. The second largest carrier in Canada is WestJet, and Air Canada is 3.7 times the size of WestJet.

In some places, Air Canada is the only airline. In some places, Air Canada is the only efficient means of transportation in general, and the lives of thousands of frustrated travellers could be disrupted. Some could be merely inconvenienced, but others could face some real hardship.

Mr. Chair, our government is not indifferent to the concerns of the Air Canada employees in this dispute either. Throughout the process of collective bargaining, we assisted the parties, and we encouraged them to find their own deal. We have suggested process, and we have appointed mediators and conciliators. We were hoping that they would come to agreements that would be acceptable to everyone. Unfortunately, it has not worked out that way.

Mr. Chair, I have always said, as Minister of Labour, that the best solution in any dispute is the one that the parties reach themselves, but the parties in these disputes have failed to reach their own agreements. I have used all the tools at my disposal under the Canada Labour Code. I have no other recourse but to ask the members to support the legislation.

At the end of the day, I would ask honourable senators to remember this: The rights and the interests of the employers and the unions are very important, but, in this specific work stoppage, they simply cannot outweigh the needs of 33 million Canadians. Our economy needs labour peace, and we need it in vital industries like air service.

I thank you for your consideration of this bill, and I am happy to answer any questions honourable senators may have.

[Translation]

Senator Carignan: You talked about the repercussions concerning the number of Air Canada employees in terms of direct and indirect jobs. Could you tell us about the broader economic repercussions that could result from a work stoppage at Air Canada in terms of its impact or, for example, the potential weekly loss of revenue?

Most senators have used Air Canada's services and are aware of the various service points in many small, medium and large communities in Canada, the United States and around the world. Can you talk to us about that, so that we can get the clearest, most accurate picture possible of the economic repercussions of a work stoppage at Air Canada?

[English]

Ms. Raïtt: I will. Thank you very much, senator. I appreciate it. At the top-line analysis, what we understand, based upon Transport Canada information, is that it could cost the economy up to \$22.4 million for each work stoppage. Of course, it would have an effect on the gross domestic product as well. Over this March break time, approximately a million passengers — about 100,000 a day — would be affected.

I think it is also important to note, as I indicated in my remarks, that some communities out there are served solely by Air Canada. They would be completely cut off. If I may, some of these communities that are of significance are: Castlegar, Nanaimo and Penticton, in B.C.; Kingston and Sarnia, in Ontario; Lethbridge and Medicine Hat, in Alberta; Gander, Newfoundland and Labrador; Sydney, Nova Scotia, where I was brought up; St. John, Bathurst and Fredericton, in New Brunswick; and Gaspé and Îles-de-la-Madeleine, in Quebec.

The other aspect that is important to remember is that it is not just Air Canada. Honourable senators may say, “Jazz flies to my community.” Well, the reality is that Air Canada Express will also be affected in any work stoppage because it is the mechanics who service the Air Canada Express planes. It is not just one single aspect that we are thinking about. Up to 1,100 flights a day that the entire package serves could be affected by a work stoppage. That has an enormous effect on business people, on leisure travel and on families.

Quite frankly, the passengers cannot be absorbed. Although WestJet, Porter and other airlines are fantastic — and I do not want to take away from their business plans — the reality is that there are just not enough planes out there in Canada to make up for what would happen in the event of an Air Canada work stoppage.

I thank you for the question.

[Translation]

Senator Carignan: You talked about the various mediation and conciliation services that have been used. From what I understand, both collective agreements expired on March 31, 2011, so almost a year ago, in both cases. There were some negotiations with mediators in both cases and some agreements in principle that were not ratified or accepted by the unions, despite the fact that the union representatives had accepted the agreements at the bargaining table. It seems that several mediators and conciliators have been involved and that you have been very active in this matter, in order to try to avoid getting to the point of needing special back-to-work legislation.

Can you explain the role you have personally played in the unfolding events of both conflicts, in order to try to bring the parties to an agreement?

[English]

Ms. Raïtt: As Minister of Labour, I can tell you that in our program, our job is to help the parties reach a deal. Unfortunately, when they do not reach a deal, it is not looked

on as favourably as if we help them. Over 300 collective agreements are negotiated every year in the federal jurisdiction. When you funnel them down, only a handful end up having this impasse. The Federal Mediation and Conciliation Service has a 94 per cent success rate in actually settling these matters. When you take it beyond that, in those last 6 per cent of cases, I have to say, senator, that it is quite remarkable that a work stoppage does not always have an impact on the national economy. In fact, there are a number of strikes and lockouts happening right now in Canada that will not see the attention of the federal Parliament as a result of concerns about the public interest or the national economy.

Since I became minister in January of 2010, we have known Air Canada was going to be a difficult file. We know that because the bargaining history shows us that since 2003 the units have had a very difficult time being able to freely collectively bargain because of the financial situation of Air Canada. Indeed, they went through CCAA, and they had SARS and terrible external hits in terms of the recession and 9/11. Therefore, it has been difficult for the airline. I have to say to the credit of the employees, they understood the importance of the concessions they made to the company and they did so.

• (1520)

Coming into these negotiations in 2011, there was a lot of expectation of making up lost ground. We saw that at the table and that is why we paid so much close attention to try to help the parties open up dialogue and have extra conciliators from the outside brought in. Madam Louise Otis, who is a retired jurist in Quebec with a fantastic mind and who is a great mediator, came in as a conciliator on both the machinists and on the pilots. In the case of the pilots, she actually did reach a conclusion and she wrote a report to us. She was able to write the report after the ratification had failed, but she had indicated in her report to me that she felt the process had been exhausted. What she said was this:

Taking into consideration the situation of the parties, the tentative agreement is reasonable and fair. The negotiation process was carried out diligently and competently. . . . has been exhausted. I do not recommend that negotiations be resumed or that a mediator be appointed. Under the full circumstances I consider that a reasonable agreement had been reached.

We spent a lot of time and money in terms of bringing those parties together. In the case of the pilots, we as well came to the conclusion, when we met with both parties in early February, that while the parties had both expressed a desire to reach a concluded settlement, they were so far apart with the cooling off period of negotiations concluding and both parties being in a legal position to strike or lockout, that we would have a difficulty and possibly face an impasse that would result in a work stoppage.

We offered both parties interest-based arbitration. Air Canada accepted it at the table and the pilots rejected it, which was unfortunate at the time. We offered mediation and the mediation for six months was accepted. We appointed Madam Otis again because she had such great success, and the parties met for the first time. Unfortunately, after that first meeting, Madam Otis

resigned and the reason she resigned was because she indicated her displeasure and concern that the pilots' union had disclosed the confidential nature of what had happened at the bargaining table to the press and she said she felt that she could not continue in her role and it would make it very difficult for neutrality. She wrote that to us.

At that point, it was expressed to us by the pilots' union that unless we appointed somebody else that they would go and talk to Air Canada by themselves, and I hope they did. I hope they went off and started having negotiations again.

It culminated with a lockout notice, of course, by Air Canada management. I have told these stories over and over again, and I tell them in sadness more than I do in anger because we have put so much Canadian taxpayer effort, time, money and resources into trying to help parties reach a deal because getting to this impasse and utilizing this place and utilizing the other place in order to deal with matters that should be settled between the parties, quite frankly, is an extraordinary use of resources. However, that is balanced by the absolute need to protect the public interests, so I know that we were doing the right thing.

Senator Carignan: Thank you.

The Chair: Honourable senators, I have 14 other senators on the list to pose questions to the minister. Next is Honourable Senator Tardif.

[Translation]

Senator Tardif: Madam Minister, yesterday in the other place, you said that:

The federal government only intervenes in situations where the public interest is seriously threatened. This is true, for example, when the national economy could be adversely affected by the threat of a work stoppage. Unfortunately, that means we need to pass this bill to avert a work stoppage at Air Canada.

Madam Minister, if you believe that the public interest is seriously threatened, why, after so many attempts on your part to resolve the labour disputes at Air Canada, did you refuse to amend the law and designate Air Canada as an essential service so that these disputes would automatically be subject to binding arbitration?

Your comments suggest that you consider Air Canada to be an essential service. Would you please clarify?

[English]

Ms. Raitt: Thank you for the question, senator.

The Canada Labour Code is drafted in such a way that it allows for work stoppages to be prevented in the case where we can show there will be a significant impact on the health and safety of Canadians, and it does not speak to economic conditions. As a result, that is why we have seen, since 1950, specific acts of

Parliament at certain times determine whether or not the national public interest outweighs the balance of the rights of the workers and the rights of the employers that are given to them under the Canada Labour Code.

I can tell you that I would not be in favour of deeming any air carrier service an essential service and the reason is this: In 1998 there was a 13-day strike by pilots and there was no return to work. The reality is that that happened because there was a second national carrier. The airline policy of the day was that we had a duopoly, two carriers that served coast to coast to coast, all points, and competed head to head. That of course was Canadian Airlines and Air Canada.

At the time, in terms of whether or not passengers would be stranded and business could continue, that simply was not the case. There was a loss to the economy of course, as I noted; however, it was deemed at that point in time that the public interest could be served by the fact that we had that kind of airline policy.

I believe that these matters should be looked at on a case-by-case basis. I also believe that the market conditions can change. With the way that our competitiveness is structured in this country, you may see WestJet in a number of years increase their market share and, indeed, they announced in December that they would be seeking to set up a regional carrier. If the numbers in the market make sense for another carrier to be able to absorb a work stoppage at Air Canada, then it is not going to be in the national public interest to intervene. That is a simple equation one can calculate. That is why I do not believe it makes sense to deem it necessarily an essential service.

Also, I would say one last thing: Under the Canada Labour Code, the CIRB can determine if there are services that need to be maintained for health and safety, and that is the key reference that we made in this case because we wanted to see whether or not there are certain routes that need to be protected and whether or not certain aspects of the carrier needed to be maintained for the health and safety of Canadians.

Senator Tardif: If I understand you correctly, minister, you do not believe your approach to Air Canada over the years to have been one characterized by some degree of both improvisation and imposition. Perhaps you can provide some clarity as to why you have chosen to address the situation in this way.

On the one hand, we know that Air Canada is a private corporation. It conducts itself in a manner befitting a private corporation, for example, in the generous bonuses that it gives to its executives. There is nothing wrong with that in and of itself. However, a private corporation does not get to avail itself of the services of the Minister of Labour and the Government of Canada for help when it finds itself in a dispute with its employees.

Is Air Canada a private corporation or is it an organization deemed to be an essential service by the government?

Ms. Raitt: I thank the honourable senator for the question.

[Ms. Raitt]

The Canada Labour Code and the federal jurisdiction for the Minister of Labour actually only speaks to private industries. It only talks about the federal private jurisdiction, so it is only the CNs and the Air Canadas of the world. The actual public sector is covered under a different act and that falls in the purview of the President of the Treasury Board, Minister Clement. Therefore I focus solely on private interests and, indeed, that is where the services of Labour Canada are found in helping to prevent these kinds of work stoppages from happening.

When we propose back-to-work legislation, I do so in my role as a member of cabinet and a member of the government, and it is my recommendation that we have brought as many tools as we could through the code. I guess if I were to characterize our approach, our approach on the Air Canada matter has been more careful and more calculated in terms of understanding exactly what the impact on the public interest is and always looking out for the public interest in the economy, because that is what we ran on and that is what we were elected on. That is the mandate I have, as well: to help the parties at the table to appoint, but to not pick sides at the table, to pull back and be on the side of the Canadian public.

Senator Tardif: All I can say, minister, is it seems like you are having it both ways. It is the first time that a government has taken this level of pre-emptive action on a labour dispute. Air Canada workers say they are being denied their right to participate in a free, true bargaining process.

• (1530)

It appears as if you are taking sides. No matter what you say, minister, it would appear that Air Canada has been given a privileged position here because it does avail itself of the services of the Minister of Labour and the Government of Canada on this back-to-work legislation.

Ms. Raitt: Honourable senator, I believe the way that Bill C-33 is drafted is balanced and it is one that serves to give a process to both parties in order to find their way to a collective bargaining and final offer selection.

Indeed, if you look at the history in this file, CAW customer service agents and Air Canada, in June of last year, agreed to submit to final offer selection binding arbitration and, indeed, the union's proposal was chosen, not Air Canada management's proposal. There is no tipping of the balance in this matter.

I give the point to the honourable senator that it is pre-emptive legislation and that is because of the fact that negotiations have been going on for well over a year — in the case of the pilots, 18 months — and we do need to have certainty. In the case of the machinists, we have an outstanding jurist indicating to us that, in her view, the process has been exhausted and that they have concluded negotiations. I take that advice quite to heart in terms of making decisions with respect to my recommendations to cabinet and to government on how to proceed in the matter.

As I have said before, the legislation we have put together and that we present here today aims to put in place the process to resolve a long-standing dispute wherein a work stoppage arising from this dispute would have a negative effect on our economy and also on the public interest.

Senator Tkachuk: Minister, since there have been a number of agreements — I believe six — that have been reached and then turned down, I think by the employees, in your view or your department's view, what are the major stumbling blocks that have caused this impasse and the 12- and 18-months to negotiate an agreement?

Ms. Raitt: Honourable senators, I understand that you have the ability to hear from other witnesses today, and I will stick around to hear what their point of view is on that question as well.

From what we can see at the table, the issues that matter are about wages, hours of work and pension matters. Indeed, in the case of the machinists, I believe what it comes down to is what I prefaced in an earlier question, which is the fact that this is the first time that these parties have had an ability for free collective bargaining at the table, at a time that has not been under the cloud of either CCAA or some kind of external force that was difficult for Air Canada.

What is also important to remember is that the parties at the table, in concluding their deal, had the best information available to them about the ability of the company and the members to agree to something. Unfortunately, when they went out to communicate it to their membership, it was rejected.

I was very concerned about the fact that it was twice rejected in the case of the flight attendants and we actually asked the Canadian Industrial Relations Board to investigate the matter. If the union leadership is having a difficult time getting ratification, then the situation needs to be further looked into in order to understand, because the parties should be able to do a deal at the table that can be ratified.

Senator Tkachuk: Do you think they will come to an agreement after this bill?

Ms. Raitt: There is nothing like showing your hand in order to focus the minds of the parties. I certainly hope that, much like CAW and Air Canada, they will take upon themselves the ability to utilize part of our bill in order to set out the guiding principles or the method of arbitration and find their own way to a settled agreement without the need for the government. However, I cannot speculate as to whether or not it will happen. I certainly have hopes. Indeed, the parties could even conclude a deal with this bill in place and not have to worry about final offer selection from the government. I really do hope they can, especially in the case of the machinists, because they did conclude a deal and they exhausted the process.

Senator Cowan: Welcome, minister. It does not seem so long ago that we saw you here before.

You have a responsibility, as Minister of Labour, to look out for the interests of both sides in these disputes, and you have a responsibility to look out for and protect the interests of workers as well. Here we are talking about the willingness or the intention of the government to intervene when there is an upward pressure on wages. You have explained the reasons why, in your view, that intervention is legitimate.

Yet, in other instances — and I use the example of Caterpillar — there was a downward pressure on wages, but you did not see the necessity to intervene in that case. Do those downward pressures in various sectors of the economy concern you, minister? They obviously impact on the economy. You speak about the impacts of these disputes and the lack of settlements on the economy and the concerns that you have with respect to the recovery that we are in the process of going through now.

Could you give us your views, as minister, as to how you view intervention in the case of upward pressure and lack of intervention in the event of downward pressure?

Ms. Raitt: Thank you very much, senator, for the question. As you are aware, Caterpillar and the terrible situation that unfolded there was within the provincial jurisdiction, not within the federal jurisdiction. However, I will tell you that we spoke with Ken Lewenza, President and CEO of CAW, and we also spoke with the Mayor of London on the matter, just to keep tabs, but more or less in support of what was happening at the table and not as a result of being able to do anything per se.

I can tell you that, in terms of the conciliator's report in the case of the machinists before you today, there were wage increases on the table and, in fact, there were benefits. This was not a case of seeking concessions. This was simply a case of whether or not the adjustments in the increases were enough for the members. That is my understanding of the matter. As I said, it would be helpful to hear from the union specifically as to what they have heard back from their membership on the matter.

Intervention by the federal government is not a matter of what is happening at the table. We are actually blind to the issue and the parties at the table. What we are concerned about is the effect of the work stoppage on the Canadian economy and on the Canadian public. That is our metric.

For example, there is a lockout right now in Bathurst and Fredericton, New Brunswick, regarding Acadian Lines. This has been going on for a long period of time. We are not involved in that because it does not have a national significance on the economy. The same applies with respect to Rocky Mountaineer, a rail carrier service in B.C. Again, this is a lockout and we are not involved in it, either. Indeed, there are other strikes that we simply do not involve ourselves in because the bright-line test is not there with regard to the national economy. In this case it is and that is why I am here.

It does seem I am here with respect to these matters on I would not say a frequent basis, but I had the honour and pleasure of being here in June and I was grateful for the opportunity. However, it really is a function of when collective agreements expire.

If one looks at the history of back-to-work legislation back to 1950, there seems to be a clumping around specific dates. Although it seems I am a recurring visitor, I can tell you that there was a period in 1991 when there was certainly a lot more back-to-work legislation than what we have had. We have introduced back-to-work legislation four times since 2006. Once

was with CN, which passed in 2007. I introduced back-to-work legislation with CAW in June of this past year and we did not proceed with it. We introduced back-to-work legislation with Canada Post and we did proceed, and in this case as well.

Going into the future, as much as I like appearing before honourable senators, I do not want to be back.

Senator Cowan: I have one further question, as one Nova Scotian to another. I do not have the privilege of coming from Cape Breton, as the minister does, but she knows that she is not the first Cape Bretoner who has been Minister of Labour.

Ms. Raitt: That is correct.

Senator Cowan: A previous minister of labour, Mr. MacEachen, was the author of the Canada Labour Code.

• (1540)

Ms. Raitt: Yes.

Senator Cowan: Certainly that is a great legacy for him.

Are you at all concerned that your legacy as the second Cape Breton Minister of Labour will be that you have brought in a number of bills that have threatened the proud tradition of collective bargaining in this country? Are you concerned about that, and are you struck by the irony of that?

Ms. Raitt: I do not think there is anything ironic in that. I am very proud of my Cape Breton roots. I am a daughter of a union family and I can tell you, senator, that Christmas is very interesting at my house as a result of that. We have spirited dialogue with respect to these matters at hand.

That being said, I am the representative of Halton, and I can tell you that the families of Halton are pleased when we stand up and look after the public interest. I know I am on the right side. My legacy is listening to the Canadian public and doing what they would like us to do: look after the economy and ensure we have a better place for my kids and their kids.

Senator Andreychuk: Thank you, minister. You have covered many of the points that concern me. However, I wanted to put on the record that the national economy is vital in assessing this. For one who resides in Regina but works in Ottawa and elsewhere in Canada, I tell people I live on Air Canada. There is no way that I can make my commitments in Canada, from my province, without Air Canada. It is extremely vital.

When I am on the airlines, which are sometimes delayed, I am not the only one; it is not just parliamentarians. Virtually all the businesses in Saskatchewan depend upon it. We do not have a way to get in or out. It is extremely important that this continue.

As we know in Saskatchewan, having been a have-not province for so long, success does not come easily, and it is a tenuous thread. If there is a public interest, it is certainly well known in Saskatchewan.

Pardon me, I have allergies, so it is hard to talk at the moment.

Another issue I would like to put on the record is that, despite the long time these negotiations have been going on, there has never been in my eyes nor in the eyes of anyone I travel with a feeling of loss of safety. That is to the credit of the machinists, the pilots, the flight attendants, and the company. There has been frustration, though, that I have seen in this phase that I have not seen before. I can honestly say that I think my first flight was Trans-Canada Air Lines. I do not admit that too often, but it is true.

Senator Mercer: It is on the record now.

Senator Andreychuk: It is on the public record now.

We have gone through many phases with Air Canada, and one of the problems is that Air Canada has been in competition. Some of that competition is gone. I understand the stresses on the company, the ubiquity of both the national issues and the international issues. I understand the survival issues for Air Canada.

However, the pilots I have spoken to — and many have taken the time to talk to me over the past few weeks — do not jeopardize my safety because of these negotiations. There certainly is a frustration, however, and I am not sure whether this frustration is with their union, with Air Canada, or with the whole airline industry.

You have said that you have to look at the economy. However, do you feel that it is really about wages and hours of work? Is that the frustration that has led to the systems breaking down, or is there more to it because of the backdrop of the airline industry?

Ms. Raitt: I thank the senator for the question and her comments on it. We have definitely heard from many individuals who work at Air Canada about their frustrations with the process, how long it has gone on, and that they feel their voices have not been heard.

As I indicated in terms of the matters that are at the table with respect to the pilots, it does come down to wages and scheduling. One other specific issue for the pilots is the removal of the mandatory retirement age of 60. There is a whole discussion about forming new companies at Air Canada, and I am sure you will hear from the pilots on the matter.

I will echo what you have said: The professionalism of the employees at Air Canada, no matter where they are in the bargaining unit, always shines through in how they manage passengers, cargo and their day-to-day activities. These are difficult and trying times, not just for the Canadian public but for the employees and management. That is why, at the end of the day, we decided to put a process in place for them to find their way to stability, certainty, and a collective agreement.

As I pointed out, in the case of the service agents, the union's proposal was chosen in final offer selection. Therefore, it is not necessarily a *fait accompli* that management will win the day. Both parties have to come in and indicate their best proposal as to

what they think is fair and reasonable, what they think is best for the short- and long-term viability, and the viability of the pension plan, which is one of the major concerns of the employees at Air Canada.

The Chair: Honourable senators, I have been instructed that the minister can stay for only another 16 or 17 minutes, and I have nine honourable senators' names on my list.

Senator Finley: Welcome, minister, and thank you for your briefing and for answering these questions.

I have a unique look at this because, first, I am from the aviation industry; and, second, I was a member of the International Association of Machinists and Aerospace Workers. I negotiated contracts on their behalf. As a manager, I also experienced the results and consequences of an extended strike by the IAMAW. I do not really have any animosity toward any of the parties involved or what the process has been, a subject I will talk to at a future point.

I am interested in the considerable consequence of problems in the Canadian airline industry. I think of Western Airlines, Eastern Air Lines, Pan American World Airways, National Airlines, all of whom were emblematic flag carriers in the past. They all went bankrupt and out of business rapidly.

Minister, what do you think the worldwide effect would be on Air Canada's reputation as an international airline? So far no one has mentioned Air Canada's considerable reputation worldwide as an international airline. We have much international business, in terms of both passengers and freight. What do you think the impact there would be of Air Canada going to the wall?

Ms. Raitt: I am grateful for the opportunity to talk about the international aspect. We tend to focus domestically because of the million passengers in Canada who would be affected by this stoppage. Indeed, Air Canada has a comprehensive range of services. Not only do they serve 59 Canadian large and small communities themselves, but with ACE — Air Canada Express — it is up to over 80 destinations, and 60 other international destinations are also served. Those include cities in Europe, the Middle East, Asia, Australia, the Caribbean, Mexico, and South America. Indeed, Air Canada is an intrinsic part of the North American network, so it has a great effect on North America.

One aspect we did not talk about was the market shares that Air Canada has with respect to cargo that travels by air. Air Canada is Canada's main air cargo carrier; it has 22 per cent of domestic capacity and 49 per cent of international capacity. This now gets into trade matters. I will give you an idea of the kinds of things that we export and import. We export manufactured goods, aviation-related equipment, machinery, plastics, chemical products, and food products. Fish is a great example of an export product that travels solely through Air Canada in the belly hold. We also import the same kinds of things: metal and steel products, as well as plastics and chemicals.

• (1550)

It is an important part not only of passenger travel, but an important part of our logistics chain in general. The impact on the economy would be felt in those two ways. We would feel it in

terms of the number of people that would not be working, which is upward of 275,000. We would also feel it in terms of the goods and products that would not be making their way to their destinations and businesses. We would definitely see key components in global supply chains affected, specifically in perishables and pharmaceutical products.

At the end of the day, the cargo service has over 150 destinations that Canadian companies are dealing with as part of their everyday business. That would be immediately and effectively stopped as a result of an Air Canada work stoppage.

In terms of quantifying it, we have an understanding of about \$22.4 million. However, that is before taking into account the effects it would have on the quality of life of people who operate in small towns, who depend upon the air carrier coming in with the goods they need in order to manufacture and export their products. I thank the honourable senator for his question.

One last piece is that when you look at Canada's largest cargo hub, Air Canada has 60 per cent of the total share of Pearson itself. It is a very important part of the global supply chain in and around the GTA, utilized extensively by those involved in high tech and manufacturing.

Senator Finley: Thank you very much. I understand there are other questioners and although I could ask more, I will not.

Senator Mercer: As a Nova Scotian, I am always happy to see another Nova Scotian here, but, minister, I hope we do not see you back here for a long time. Unless, of course, the Prime Minister sees fit to appoint you to this place, in which case I would be happy to see you.

I have several questions. First, over the past 10 years, the unions and Air Canada have taken a big hit, estimated to be about \$2 billion. The company sold off about \$2 billion worth of assets, but still the pension plan is underfunded by \$3 billion. It seems to me it would have been an opportune time for that to be addressed in this legislation that you have put forward, but I do not see any reference to it. If I am wrong, I am sure you will correct me. It seems to be an opportune time to fix that, if the government will be sticking its nose into this agreement.

Ms. Raitt: In our guiding principles we have included a commentary on the importance of taking the pension into consideration. We believe that is not just important for the company, but also in terms of the sustainability of the pension plan for its employees, noting there are short-term funding pressures on the employer. Our government did help in terms of the funding pressures of the payments that needed to be made by Air Canada because it was in underfunded status. Indeed, we have focused our attention on the collective agreements and the collective bargaining process for that reason because we knew they had commitments that had to be made.

The senator is exactly correct when he indicates that concessions made by the employees were significant and necessary, as well. They chose to work with the company and support the company. They did that in the last round of negotiations with the help of Mr. Justice James Farley, who

was appointed by the Minister of Finance in order to mediate between the unions and the associations to help find a sustainable path for the company's pension plan. Part of the process of negotiating these collective agreements was dealing with that matter. Indeed, that was the singular point in the CAW dispute this past summer, which was settled by them volunteering to submit themselves to final offer selection arbitration. That decision sided with the union, as I indicated before.

We understood that collective bargaining would be difficult in these matters, and that is why we put so much effort into helping them at the beginning.

Senator Mercer: I will try to combine my two questions so we can move on to other colleagues.

Minister, you have made reference to the fact that there have been 35 work stoppages in the air sector and 6 of them have been at Air Canada. I think we need to be fair here; one of them was three hours long. It was a stoppage, but three hours a strike does not make.

You stated correctly at the beginning of your comments that unions are democracies, and we have seen that exercise throughout this process. Why are you interfering in a democratic process with the unions? After a couple of bumps in the road, the flight attendants went to arbitration and were able to settle the issue. Why was this not the route you went, with arbitration for the pilots and the mechanics, as opposed to this very cumbersome and also very disruptive process of introducing legislation? I think it brings hard feelings to all sides, whether they are on the labour side or the company side or the government side or the opposition side. It brings up a lot of bad feelings.

Ms. Raitt: I do not disagree with you in that we would be better off if we were not dealing with the matter here today. It is an intrusion upon our time, as well as others. However, it is necessary to intervene because of the fact that we were heading for work stoppages either through a strike or a lockout.

I will point out, as I said in my remarks, that the Air Canada Pilots Association was offered interest-based arbitration and they turned it down. In the case of the machinists, I can tell you that, at the table, our mediators, negotiators and conciliators always offer that as an option. We encourage them to find their way to their own process and submit themselves to arbitration, interest-based final offer selection or whatever it is. We ask them to draw their own memorandum of understanding and submit their outstanding matters to the appropriate arbitrator of their choosing. Unfortunately in this case it did not happen.

I will point out one other thing, if I may. In the case of the flight attendants, they actually found their way to arbitration only as a result of the fact that we sent them there by a request to the CIRB.

Senator Mercer: Why not do it again?

Ms. Raitt: I sent them there as a result of two failed ratifications under an extraordinary part of the Canada Labour Code, and those facts were not there with respect to the matter.

It was a specific case with respect to the failed ratification two times that caused us to send it to the CIRB. I am glad the parties voluntarily submitted to arbitration at that point. At any point in time, even today — I know the parties are here appearing before you — if they can have a conversation outside and agree to some form of arbitration process on their own, that would be a perfect resolution to the matter. We would be very pleased to see that happen in that way. Any time we can get them together is a positive aspect.

We used every tool we had at our disposal within the Canada Labour Code. Unfortunately it did not work, and that is why we are here today.

[Translation]

Senator Chaput: Madam Minister, I would like to talk more about essential services. Having carefully read the bill, I see that Air Canada's services are not recognized as essential services.

Recognizing certain services as essential has always enabled us to balance worker's rights and the public's rights. If you interfere with workers' rights to protect the delivery of services that are important, but not essential, where do you draw the line?

Will the government have to legislate every time there is a labour dispute? Is it setting a precedent that will become unmanageable down the line?

[English]

Ms. Raitt: There is careful consideration taken into every discussion we have with respect to what is happening at the bargaining table. As I mentioned, there are over 300 collective agreements negotiated every year in the federal jurisdiction. Indeed, a handful of those, possibly 15, end up in a situation of a strike or a lockout. This year, we have acted on three occasions, one having to do with Canada Post and two having to do with Air Canada.

• (1600)

The analysis that we undertake is to determine whether there is a national public interest. In this case, it is twofold: The first aspect is the national economy and issues of trade, commerce and business that we pointed out; and the second aspect is the Canadian public in reference to the million passengers flying over the next 10 days. It is a bright-line test, senator. It is something that we take a look at carefully and that we analyze and manage because, as has been pointed out by Senator Mercer, an incredible amount of time goes into back-to-work legislation in this place and in the other place that takes us from the normal carriage of business we had planned. It is necessary and in the best interest of the Canadian public in this case.

[Translation]

Senator Rivest: I have a quick question. Did you discuss Bill C-33 with Air Canada management before introducing it in the House?

[English]

Ms. Raitt: Absolutely not.

[Translation]

Senator Rivest: Neither you, nor your officials or deputy ministers?

[English]

Ms. Raitt: I am looking to my officials and they are saying no.

[Translation]

Senator Rivest: In the bill, you mention, for example, in clause 14, that the arbitrator has to take into account the report of the conciliation commissioner, et cetera, the final offers, and you mention that he has to base his decision on the need for conditions of employment that are consistent with those in other airlines. We see two requirements from the employer's side, in other words Air Canada's ability to be competitive. Would it not have been appropriate to indicate in the bill that the arbitrator must take into account not only the needs of Air Canada, but also the workers' completely legitimate demand for improved working conditions for Air Canada employees? That is not mentioned anywhere in this clause. If you are telling the arbitrator that he has to take into account the needs and concerns of the company, why not balance out the arbitrator's mandate by telling him he has to take into account the legitimate concerns of the workers who want better working conditions?

[English]

Ms. Raitt: The purpose of the guiding principles is to have the arbitrator understand what the key issues were at the table. As I indicated in questions earlier, the key issues at the table in both cases had to do with issues around the viability of the employer, over both the short and the long term; the competitiveness of the employer; and, on the other side, the pensions. Those questions actually arose fundamentally from the employees rather than the employer. The employees are very concerned. You will hear from the pilots how concerned they are about the economic viability of Air Canada. They will speak openly and freely about what they think were injustices from the past. We have heard a little bit of that today already. They are concerned about the short-term and long-term viability. As well, there is a lot of concern about the pension plan, which, as I pointed out, is a major issue.

The arbitrator will take these things into account. They will see that there were matters at the table, but, at the end of the day, the arbitrator is their own decider. They are their own decision maker, and they will receive from the parties their final offers and make a decision upon both of them. However, it is important to remember that these were the key challenges at the table. It is reflected in the bill to help guide the arbitrator and at least give the arbitrator, whoever he or she may be, an understanding of the matters in contention.

[Translation]

Senator Rivest: You have complete discretion to appoint the arbitrator, and I know that you are going to choose a highly skilled person, but in order to lend credibility to the arbitrator's

report, why, before giving yourself the discretion to appoint the arbitrator, did not you not include a clause in the bill requiring that you consult the employer and the union about the appointment?

[English]

Ms. Raitt: As a matter of course, we consult with the unions and the management before we choose an arbitrator. We have done that in the past with Canada Post. We have done that as well in other matters of appointments. I will point out that it is drafted in this way to give it certainty and finality because it is a consultation process that we undertake. The decision and discretion are mine, as minister. In that way, we can know that a process will be followed, will be put in place and will continue on in a timely fashion.

The Chair: Minister, on behalf of all senators, thank you for joining us today to assist with our work on the bill. I would also like to thank your officials.

Honourable senators, as the minister and her officials are leaving, I am advised that there are officials from Air Canada available to appear. Is it your wish, honourable senators, to hear from them at this time?

Hon. Senators: Agreed.

[Translation]

Senator Ringuette: Certainly, Mr. Chair. I would like to raise a point of order. As a member of the Standing Senate Committee on Banking, Trade and Commerce, which has a meeting at 4:15 p.m., I believe that it is a breach of my privilege to participate in this discussion in Committee of the Whole. I believe that the issue of Senate committees sitting while an urgent debate that requires the participation of all senators is being held here in this chamber is grounds for a point of order and constitutes a breach of my privilege with regard to the debate.

Mr. Chair, if the Committee of the Whole is going to sit at the same time as Senate standing committees, I believe that you must deliberate on this point of order and decide whether committees of the whole or standing committees take precedence or whether both committees should be allowed to sit at the same time.

Senator Carignan: Earlier, the Senate unanimously decided to proceed in Committee of the Whole, notwithstanding the rule to suspend the sitting at 6 p.m., and to work all afternoon in accordance with the usual rules. Obviously, as usual, the rules allow committees to sit at 4 p.m. Some committees have decided not to sit. Others seem to have decided to go ahead with their meetings.

However, I do not see how the Senate's decision to proceed in Committee of the Whole is a breach of the senator's privilege. She can choose to attend the committee meeting or to send someone in her place.

[English]

Senator Ringuette: Under the *Rules of the Senate*, standing committees have specific time slots to meet and the Senate is not allowed to sit at the same time as a standing committee in order to

allow the full participation of senators. Having this Committee of the Whole at the same time the Standing Senate Committee on Banking, Trade and Commerce meets is a breach of my privilege. I personally consider it my responsibility, as a senator from New Brunswick, to be heard here and also to fulfill my duty on the standing committee. It is certainly a question of privilege.

[Translation]

Senator Carignan: Mr. Chair, you are currently the Chair of the Committee of the Whole. If there has been a breach of a senator's privilege, I do not believe that you have the authority to rule on a point of order at this time, since that is a duty of the Speaker of the Senate.

• (1610)

I suggest we continue. If Senator Ringuette wants to raise a point of order, she can do so in due form when the Senate resumes.

[English]

The Chair: Is there further debate on the point of privilege? If not, honourable senators, we are not in the Senate now; we are in the Committee of the Whole. The Committee of the Whole had an order of the Senate to proceed. We have witnesses waiting, and honourable senators have said that they would like to hear from the witnesses from Air Canada. I would now ask that those witnesses come in. With respect to the questions raised by Honourable Senator Ringuette, I will refer them to the speaker when the Senate resumes after this Committee of the Whole.

Honourable senators, we now have before us Louise-Hélène Sénécal, Assistant General Counsel, Air Canada; Kevin Howlett, Senior Vice-President of Employee Relations; Captain Dave Legge, Senior Vice-President, Operations; and Joseph Galimberti, Director of Government Relations.

Is one of you or all of you going to make an opening statement? Could you tell me which of you it will be?

Louise-Hélène Sénécal, Assistant General Counsel, Air Canada: I will be doing so, Mr. Chair.

The Chair: On behalf of the Senate of Canada, I would like to welcome you to our Committee of the Whole in these deliberations on Bill C-33. After you make your opening statement, the floor will be open for questions from honourable senators. You now have the floor.

Ms. Sénécal: Thank you.

[Translation]

Ms. Sénécal: I would like to thank the honourable senators for giving me the opportunity to speak to you today as you debate Bill C-33, An Act to provide for the continuation and resumption of air service operations. I am here in my capacity as Assistant General Counsel at Air Canada, and I am accompanied by my colleagues,

Kevin Howlett, Senior Vice-President of Employee Relations; Dave Legge, Senior Vice-President, Operations; and Joseph Galimberti, Director of Government Relations.

After our opening statement, we will be pleased to answer questions from the honourable senators.

Air Canada is pleased to have the opportunity today to appear before you and to contribute to the debate about this legislation. It is important to first state that the corporation began the collective bargaining process with the International Association of Machinists and Aerospace Workers, the IAMAW, and the Air Canada Pilots Association, ACPA, with the firm and sincere intention of arriving at a negotiated settlement.

Only after undertaking a process of complex and prolonged bargaining with both unions during which agreements in principle were reached at the bargaining table in both cases and then rejected by the members did we reach the situation we are in today.

Air Canada received a notice to bargain from the IAMAW on March 21, 2011, and had an initial meeting to start the bargaining process on April 7, 2011. It then held intensive bargaining sessions in Ottawa from April 27 to 29 and from May 9 to 12, 2011. The bargaining process was suspended between June 1 and October 3, 2011, while the IAMAW was setting up a new bargaining committee to represent Air Canada employees only.

Bargaining sessions resumed in Gatineau from October 4 to 7 and October 17 to 21 and from November 1 to 8 and November 28 to December 9, 2011. On December 2, Air Canada filed a notice of dispute and a request for conciliation assistance.

On December 21, 2011, Justice Louise Otis was appointed as conciliation commissioner and bargaining resumed in Montreal, with her assistance, from January 9 to 21 and then from January 30 to February 10, when an agreement in principle was reached.

[English]

Unfortunately, Air Canada was informed of the rejection of the tentative agreement by the IAMAW membership on February 22. Air Canada met again with the IAMAW, on March 5 to discuss the reasons for the failed ratification and to develop a plan to move the process forward. On March 6, the IAMAW served notice to Air Canada of their intention to strike, effective at one minute after midnight on March 12, 2012.

In the case of ACPA, the pilots' union, Air Canada invited the union to the bargaining table on August 27, 2010. ACPA accepted the invitation on September 15, and bargaining commenced in Toronto on October 4, 2010.

On March 17, 2011, ACPA and Air Canada reached a tentative agreement. Unfortunately, Air Canada was informed, on May 19, 2011, that the ratification of the tentative agreement by the members had failed.

[Translation]

On October 26, 2011, Air Canada requested conciliation after repeated attempts to bring ACPA back to the bargaining table failed. On November 10, Paul MacDonald was appointed conciliator. On November 23, the parties resumed negotiations. ACPA sent a new negotiating committee with a new mandate. The conciliation period was extended by seven days on January 9, 2012, by another day on January 16, and by another six days on January 17. It ended on January 23 and was followed by a period of reflection from January 24 to February 13, during which Paul MacDonald was appointed mediator.

On February 14, Air Canada and ACPA wrote to the Minister of Labour to confirm that they accepted the mediation proposed under section 105 by the Honourable Lisa Raitt. On February 17, Madam Justice Louise Otis and Jacques Lessard spoke on behalf of Air Canada and ACPA representatives to discuss logistics and the mediation timeline. On February 27, Justice Otis resigned from her position as co-mediator after ACPA expressed concern about her availability due to prior professional commitments.

[English]

On March 7, Air Canada presented ACPA with our best and final offer, with a deadline for acceptance of March 8 at 12 noon. The same day, a letter was received from the Minister of Labour advising that Madam Justice Louise Otis would not be replaced and that Mr. Jacques Lessard would remain as sole mediator. On March 8, Air Canada issued notice of intent to lockout at one minute after midnight on Monday, March 12, at which time Air Canada had still not received ACPA's full proposal to the company.

[Translation]

Air Canada is convinced that the tentative agreement reached with the IAMAW and rejected by its members, as well as the final offer presented to ACPA, included significant improvements to both wages and working conditions. We believe that the agreements absolutely did not force concessions from the employees' point of view. For example, the tentative agreement with the IAMAW, which was rejected, proposed a 7 per cent wage increase over the four years of the contract for ground crews and baggage handlers. It included shift premiums for evening and night shifts, a paid 30-minute meal break as of September 30, 2012, five days off after 10 years of service, greater job security thanks to the maintenance of ground services for Air Canada's partner Jazz Air at stops where the work is now being done for the duration of the contract, and the participation of existing employees in the defined benefit pension plan.

• (1620)

[English]

For the technical services group of IAMAW employees, the rejected tentative agreement notably made provisions for a 9 per cent wage increase over the four-year course of the contract. It included: the introduction of a skills premium for certain categories of employees; enunciated increases in endorsement pay for certain categories of employees; the introduction a shift premium for overnight shift workers;

improvement to the shift-bidding process; implemented a pay bonus for certain categories of employees; and secured a defined benefit pension plan for existing employees.

In the case of the final offer presented to ACPA, the pilots' union, the Air Canada proposal notably contained an across-the-board pay increase of 14 per cent over a five-year period from the date of ratification, secured a defined benefit pension plan for existing employees, and made a commitment on behalf of Air Canada that the company will negotiate appropriate changes with ACPA if amendments are required to the collective agreement in order to participate in the low-cost market. The contract also allowed for the creation of wage pool pay groupings to allow pilots to maximize their earnings earlier in their career. It increased by 14 per cent the domestic meal allowance. It made increases to uniform allowances and gratuity allowances. It made a provision for annual, recurrent training to be paid at four hours a day, allowed pilots to make themselves available for increased overtime on a voluntary basis to improve earnings, introduced a multi-month blocking system for pilots on certain long-haul aircraft, and introduced an extra set of monthly guaranteed days off for reserve pilots on certain short-haul aircraft. Air Canada firmly believes these improvements being made to current working conditions and pay scales for our pilots to be fair and, if not industry leading, then certainly industry competitive.

For the groups represented by the IAMAW, the average salary for full-time licensed aircraft technicians at Air Canada for 2011 was \$68,640, excluding incentive rewards, health and pension benefits; for mechanics, \$60,341; cargo agents, \$51,734; and baggage handlers, \$41,048. In addition to base salaries, these employees also received an average of \$2,125 in incentive rewards in 2010. These same employees received 5 per cent in wage increases from 2006 to 2008 and have received incentive payouts of between 2.9 per cent and 1.9 per cent every year from 2005 to 2010. Over and above these pay increases and profit-sharing, approximately 25 per cent of our employees received annual wage increases of 11 per cent to their base wages as the result of progression through established wage scales.

Air Canada additionally provides comprehensive health care and dental care benefits, and employees participate in the company's defined benefit pension plan, benefits which are valued at approximately 28.5 per cent of annual salary.

[Translation]

With regard to ACPA, compensation and benefits for pilots rank in the top 25 per cent in North America. Air Canada pilots on active service earn an average of \$143,000 a year, not counting medical and pension benefits.

Of the 500 highest-paid Air Canada employees, 479 are in fact pilots. Of the 20 employees who earn the most at Air Canada, 10 are pilots. Depending on the month and the type of plane they fly, pilots must put in between 64 and 85 hours of flying a month, and they have an average of 12 to 18 days a month off. Air Canada pilots also benefit from a comprehensive medical and dental plan, one of the most generous in Canada, which covers employees' medical costs, and they contribute to the defined benefit pension plan.

At present, most pilots retire at age 60 after 32 years of service, and they receive an average annual income of \$116,000 from the defined benefit pension plan.

[Ms. Sénécal]

Management feels very strongly that Air Canada, as an employer, offers good working conditions, fair compensation packages and exceptional benefits to these groups of employees. The agreements in principle reached with the IAMAW and ACPA and the final offer subsequently made to ACPA represented, from management's perspective, a reasonable and fairly negotiated improvement in working conditions and compensation and benefits packages. We sincerely hoped to reach negotiated agreements that would be ratified by the groups in question, but that was unfortunately not the case.

That said, our priority was to put an end to the constant uncertainty that reigned within the unions, as it was affecting clients and destabilizing the company. In the meantime, we are always available and willing to communicate with both unions. Thank you for taking the time to listen. We would be happy to answer any questions you may have.

[English]

The Chair: Thank you for that very excellent introduction. It was a great overview. We deeply appreciate it.

I have a list of honourable senators who wish to pose questions once again, and I will start with Honourable Senator Cowan.

Senator Cowan: Thank you, chair. Welcome, folks. I should explain that normally our committees do not sit when the Senate is sitting but, because this is a Committee of the Whole, there are a number of Senate committees sitting. The absence of many of our colleagues is not due to a lack of interest, but they have other work to do and they are at those committees.

Does Air Canada support the final offer selection process that is set forth in section 11 of the act?

Kevin Howlett, Senior Vice President, Employee Relations, Air Canada: In answer to your question, honourable senator, for us, it is about bringing finality to the process, a process that has been ongoing for a substantial amount of time. If final offer selection is a route to go, for us, it is about bringing conclusion to the process.

Senator Cowan: You support the mechanism that is described in section 11 of the act?

Mr. Howlett: Ideally, for us, we would have far preferred to come to a bargained settlement but, given that that was not possible, final offer selection it is.

Senator Cowan: This mechanism as it is set out here, in the absence of a negotiated settlement, which would be your preference, is supported by you as a way of dealing with this situation?

Mr. Howlett: Correct, yes.

Senator Cowan: Could you summarize for us, quickly, because there are a number of senators who want to speak to you, the essential roadblocks? What are the two or three top issues that

prevent you from your preferred resolution, which is a negotiated settlement? Without getting into the detail, what is the high-level view of the essential roadblocks?

Mr. Howlett: In the case of the IAMAW, it would come down to issues with respect to pension, provisions around how shifts are developed and rostering. In the case of the pilots, and this is very high level, there is a substantial number of issues outstanding, all the way from work rule changes to changes with respect to scope, the jurisdiction of the collective agreement. Pension remains outstanding as well with that group.

Senator Cowan: Thank you.

• (1630)

Senator Segal: I want to thank the representatives of Air Canada for making time to be here today.

I want to talk about breaking the cycle. This cannot be good for the morale inside your management; it cannot be good for the morale inside the bargaining groups. There are aspects to the cycle that I think are recurring; every time a negotiation of substance begins, someone mentions the risk of bankruptcy. There is always the question of the repatriation of profits up to ACE and its distribution of those profits, which is what you would hear from the bargaining groups as a normal course process.

When the government intervenes for the purpose of protecting the public interest — not choosing sides as between management and the bargaining groups, but for the public interest — that intervention becomes, unwittingly perhaps, a part of the cycle. People will therefore believe on one end that negotiations cannot possibly ever proceed to a normative sort-out, because Her Majesty will intervene through the government at some point. That becomes problematic on both sides.

As professionals with a huge skill set and a tremendous breadth and scope, you see the cycle, its implications and its costs. I would be interested in knowing what advice you would give us with respect to how the cycle can be broken, but in a positive way — in a way that allows the airline to sort through its labour relationships constructively. It may be, perhaps, that the cycle gets broken because there is some core economic restructuring of the parent company, or the company itself, that suggests itself based on overall economic conditions.

Legacy airlines have had their problems. Air Canada has managed extremely well based on some of those burdens, but those burdens remain.

I think I speak for a few honourable senators here in trying to get the best advice we can from you as to how that cycle might best be broken, assuming the best of faith on the part of management — which is certainly my assumption — so that the vision of a privatized Air Canada, managing well and maintaining its superb standards of service and global connectivity for Canada, both on the passenger and cargo side, is maintained and advanced, and not always with the intervention of this chamber or the other chamber as a regular quarterly part of your own business cycle.

Mr. Howlett: In response to your question, there is something that sets the issue apart today here at Air Canada, vis-à-vis its past. If you go back over the history of Air Canada, it has a very enviable track record of being able to conclude labour agreements with its employees, and it has done so with the minimum of “labour interruption,” let us put it that way. The competitiveness of our collective agreements and the place our employees find themselves vis-à-vis their colleagues and the industry is, quite frankly, enviable.

However, I think what separates this circumstance from the past is the fact that we have concluded collective agreements with our employees during this round of bargaining. Excluding the three-day strike with the CAW, we came to agreements eight times with six of our unions. You know the history of the rejections that have taken place.

I think what we are looking at here and the challenge that we as a company and the leadership of the trade unions face is that there is a disconnect between that leadership and the membership at large. I think a number of negative consequences flow from that. We are witnessing that today as we speak, through having a freely-negotiated, recommended-for-settlement collective agreement by its leadership with the IAMAW, as well as this same set of facts with our pilots, and we have both of those agreements rejected.

Gone are the days, in my view, where labour leadership has had the capacity to be able to craft and manage the message to its constituency. Facebook, Twitter, and all social media vehicles have taken that right out of their hands. It is the world we live in. One of the challenges we all have going forward is to be able to craft legislation that recognizes and deals with that reality as policy-makers here.

We as a company still have significant restrictions — let us put it that way — with respect to what we can and cannot communicate to our employees during the collective bargaining process.

[Translation]

Senator Dallaire: With respect to pilots, does the friction caused by the merger of Air Canada and Canadian Pacific still exist or is it gone?

[English]

Captain Dave Legge, Senior Vice President, Operations, Air Canada: I am Captain Dave Legge, Senior Vice President, Operations. I would like to confirm the question you are asking. Are you asking if friction still exists at this time due to the merger that occurred 12 years ago?

Senator Dallaire: Between the pilots, in particular, and the flight crew.

Mr. Legge: Truthfully; I do not believe any friction exists on the flight decks. I do not think it impacts safe flying operations at all. That is not to say that our current group of pilots are totally satisfied with how the seniority merger turned out 12 years ago. Is that impacting safe flying operations? The answer is definitely “no.”

Senator Dallaire: Has this continued friction shown itself in negotiations in any way, or has there been solidarity amongst all the pilots in that regard?

Mr. Legge: To my knowledge, that is not impacting the current negotiations. If it were, it would not be of material impact.

[Translation]

Senator Dallaire: Senator Segal was very generous when he described Air Canada's reputation. You are world-class. You fly to many countries around the world, no doubt about that.

Given that you raised the issue, can you tell me that our pilots' benefits are very good, if not generous, and that you believe that they are more than sufficient to meet their needs and reflect their responsibilities?

In the past 10 years, how many accidents have been caused by pilot error?

Ms. Sénécal: In aviation in general?

Senator Dallaire: No, at Air Canada.

Ms. Sénécal: That depends on the definition of accident. Air Canada's last major accident was in Fredericton in 1997. It did not take place in the past 10 years.

Senator Dallaire: I am referring to accidents that could affect your operations and where an aircraft became inoperable.

Ms. Sénécal: At Air Canada, to my knowledge . . .

[English]

The last accident that rendered an aircraft inoperable at Air Canada was in 1997 at Fredericton. Maybe Captain Legge can correct me.

Mr. Legge: That is correct. Our last accident was in 1997. There was no loss of life. It was not due to "unservicability" associated with the aircraft.

• (1640)

Senator Dallaire: What I am getting at is that although you have given us a feeling that what is proposed to the pilots is ample to meet the requirement, we have nothing to compare that with. For example, compare it with the American airlines and how many pilot and error accidents they have been having, or companies that have gone under, like Swissair, and what they have done to rectify their pilot problems, or compare it to KLM and what they are getting.

Can you tell us whether we are within the scope of the others and whether our pilots are of better or equal caliber? I would argue that whatever numbers you come up with, unless there is a comparative reference, we can say it is good, not good or whatever. You cannot just say because they have a great health plan — they better have a good health plan — or other privileges

or benefits they have. I am speaking from an environment where pilots have always been treated as a little special, to say the least.

Mr. Legge: I understand. I am from the military as well.

Senator Dallaire: Compared to the artillery who have tried to shoot them down.

Mr. Legge: Our pilots are compensated in the top quartile. At Air Canada, we enjoy the ability to select the best. We have thousands of applications, and lots of pilots want to fly for Air Canada. For every three candidates who apply, only one is selected. They go through our training process, and besides a rigorous selection process we have one of the most advanced training programs in the world. I am very confident of the capabilities of our pilots. They are well-trained professionals.

Senator Dallaire: What is squeezing them to be unsatisfied with what you are offering?

Mr. Legge: If we go back to the first tentative agreement, there were a number of changes in that agreement. For lack of a better word, it was a transformational change to the way we were going to conduct business in flight operations and manage the pilot group. There were a number of productivity improvements, but there was also an agreement that would enable us to do less training in the airline. Right now, for every pilot who retires at Air Canada, it generates about seven courses. Pilots are paid according to type of aircraft and seat positions.

We worked with the first negotiating team because of all that training that is conducted and came up with what was called a pay grouping. In that pay grouping, all wide-body captains would be paid the same, all wide-body first officers and so on. I believe there were going to be five pay groupings. That was going to reduce our training requirements, and for every pilot who retired off the top at age 60, it would generate about four and a half courses.

We certainly saw that as a benefit for the company, as well as for the pilots. It would enable them not to have to go on to another course to earn more money. It would also enable the wide-body captains to achieve maximum pensionable earnings before they retired than they would otherwise do.

The other element of the first tentative agreement was with a low-cost carrier. It is our position that that part of the tentative agreement was a determining factor in why the tentative agreement was turned down.

Senator Dallaire: Seniority is not a factor anymore?

Mr. Legge: It is always a factor. With a status pay system, it would be less of a factor. You would have pilots bidding for better working conditions rather than bidding up to higher paying aircraft and having not as good working conditions.

Senator Dallaire: My last point is that a number of concerns are being expressed, particularly in the United States, that the level of experience is being reduced — numbers of years, flight hours and so on — which can have an impact. Has that been raised by your pilots in any way? Is that affecting in any way, shape or form their position in negotiation?

Mr. Legge: I think the level of experience in the United States has probably been reduced in the second- and third-tier carriers. At Air Canada, that is not the case. Our flying requirements, our minimum hours, are 2,000 hours, and a minimum of a high school education. We typically hire pilots with more than 2,000 hours and more than high school. We have not had to reduce our required hours or experience levels in order to hire pilots.

Senator Dallaire: Thank you.

Senator Finley: We are not here to negotiate a contract on behalf of the parties. I am sure if we asked both parties, they would say they have negotiated in good faith, and I assume both have. I was always taught as a negotiator to avoid a strike wherever possible because it does not do anyone any good.

I am looking at the consequences of a work stoppage. We have talked and heard about \$22 million per week, which strikes me as quite small, and I imagine the ripple effect would be larger than that.

If there was a full-scale work stoppage at Air Canada, do you have a model that projects the rate at which you have to shed people and jobs? Do you have a model that says if we are stopped for a week, two weeks or three weeks, how long it takes to rebuild the airline, the carrier and its operations, back up to 100 per cent operating capacity? I would imagine the longer a work stoppage lasts, you have all kinds of things that happen in the airline industry: pilots spread all over the world, aircraft stranded all over the world, maintenance bulletins that are not getting carried out, parts stoppages and a tremendous jam-up with your subcontractors. I wonder if you could comment on how time sensitive the stoppage would be, if one was to occur.

Mr. Howlett: I will answer first and let my colleague follow up. To give you a sense of the issue, to shut Air Canada down for a day would cost approximately \$33 million per day, and that includes our shutdown costs and our start-up costs after the fact.

Second, if you shut Air Canada down, effectively all employees are placed on off-duty status, and that is some 26,000 employees, plus or minus. Then you obviously get into the logistics that the fleet is all over the world, as you said. There are the logistics of taking people off payroll and bringing people back on payroll. There is the whole issue around the fixed-cost component that will continue even though you do not have an operation.

Shutting down Air Canada is probably the easiest part of it. I will let Mr. Legge give you a sense of how much it would take from a maintenance and operational point of view to bring Air Canada back up to full service afterwards, depending on the length of the strike. Of course, what is overriding all of this is the financial capacity of the business to withstand that economic hit in the first place.

Mr. Legge: The most effective way to shut down Air Canada, or any airline, would be to start two to three days beforehand. In other words, begin an orderly shutdown of the airline so that we would not have many of our aircraft at the international stations and our crews as well. We would begin the shutdown two to three days before, shutting down our international flights. The flights at

the beginning of the shutdown would be largely domestic flights returning that night. We would want to have most of our airplanes back in our Canadian hubs, which would certainly be a challenge for us. That kind of shutdown would be the most effective. To start up the airline again would probably take three to four days to be fully up and running again as a fully operational airline.

• (1650)

Senator Finley: My understanding is that most of the aircraft and the turbines are leased. During a shutdown, given an aircraft at around \$200 million apiece, these lease requirements must be fairly extensive. Would these lease agreements still be required to be serviced by Air Canada?

Ms. Sénécal: Most certainly. All leases would have to be paid. All obligations of maintenance under the lease would continue to be performed.

Senator Finley: Without giving away the secret sauce recipe or any airline secrets, can you give me a frame of reference for how much money we are talking about?

Ms. Sénécal: It is included in the \$30 million.

Senator Finley: Of your 26,000 employees, how many are unionized and how many are non-unionized? How many separate unions would you deal with among the unionized employees?

Mr. Howlett: Our total employee population has about 87 per cent represented by trade unions. Our trade unions are obviously dominated here in Canada. Our U.S.-based employees are represented by a trade union as well, as are our employees in the U.K. We have five major unions here in Canada. We have the IAMAW, who represent our technical workers and airport workers; ACPA for our pilots; CUPE for our flight attendants; the CAW for our customer service staff and scheduling staff; and CALDA for our dispatchers.

Senator Finley: Is the IAMAW the largest union representation?

Mr. Howlett: Yes, they are the largest union in our business and they have an employee population of approximately 8,100.

Senator Finley: Are the non-pilot and non-machinist unions aware, and I am sure they must be, of the fact that if worst came to worst and the airline was closed down then they would lose their jobs as well? Has there been any reaction from those other unions?

Mr. Howlett: I would expect the other bargaining units are aware that if either of those two units goes out, given their size and the jobs they do, we would be shutting the airline down.

Each one of our collective agreements contains provisions of what we call "off-duty status," which basically takes people off the payroll on an expedited basis. In other words, it takes them off in sort of one block and returns them as the business ramps back up. Generally speaking, they would be aware of it.

Senator Finley: On the planning horizon for Air Canada in terms of routes and employees — generally speaking, your business plan — what sort of horizon do you look at? I know you look at one very closely, but how far out does Air Canada see, plan and work on expanding its business? Are we talking 10 years or 15 years?

Mr. Howlett: Obviously, we have an annual plan that we work to. Then, we have long-range planning, which takes snapshots over a period of five years, seven years, et cetera, and that deals with issues such as fleet replacement, market expansion, and things of that nature.

Senator Finley: Anyone who breathes knows how razor thin the airline business is at the moment, having seen United Airlines, American Airlines and many others either go to the wall or be in a state of chapter 13. Do you measure, for example, a return on assets? Do you have some measurement that would compare readily to other very capital-intensive businesses? How low is the return on the shareholders' investment?

Mr. Howlett: The standard industry measure, in response to your question, is EBITDA, Earnings Before Interest, Taxes, Depreciation and Amortization. That is the generally accepted principle across this industry that measures performance across a number of metrics of the business.

Ms. Sénécal: As well, another unit is used: CASM, Cost per Available Seat Mile. This universal measure allows one to compare airlines.

Senator Finley: You fly at roughly 81 per cent capacity. Is that right?

Ms. Sénécal: The overall load, yes.

Mr. Howlett: What we call "traffic," yes, you are right.

Senator Finley: It is about 81 per cent. How does your cost per available seat mile compare to other airlines within Canada? Let us compare roughly with WestJet or one of the other low-price carriers, like Porter, for example. What is the biggest component of your cost per available seat mile? I know it will be different if you are flying to Moscow or to Toronto from Ottawa.

Senator LeBreton: This is your last question.

Senator Finley: What is the biggest component of your cost per available seat mile?

Ms. Sénécal: The advantage of that unit is that it is able to compare different types of airlines with each other. Our cost per available seat mile compared to WestJet, for example, is roughly 30 per cent higher.

Senator Finley: Why is that?

Ms. Sénécal: It is because of wages, benefits, pension plans, leases, airport rents at some airports we fly to, operations and maintenance requirements for our aircraft.

Senator Finley: Thank you.

Senator Meredith: Thank you so much for your presentation this afternoon. Going back to a question that Senator Cowan asked with respect to the final selection offer, walk me through the arbitration process. You presented an offer to the pilots, and apparently this was rejected. Will you be presenting the same offer again through the arbitration process? Can you walk us through how that would work?

Mr. Howlett: Yes. First, we had a tentative agreement with our pilots, which was subsequently turned down by the membership. Second, we reconvened bargaining in November last year.

• (1700)

From November to the present, there have been two or three exchanges of proposals between the parties, with the bulk — if not 95 per cent — of the issues remaining outstanding. The way a final offer selection arbitration process would work is that the parties would independently prepare a comprehensive proposal to cover all standard issues that would be outlined in the collective agreement, from term to the financial issues to the working conditions to the retirement conditions, et cetera, and that would be put to an arbitrator. The arbitrator would be tasked, after hearing the respective submissions of each party, to select one or the other.

Senator Meredith: Clause 13 also mentions matters of dispute that remain outstanding. How are those disputes resolved once the arbitrator has made a decision as to protecting both parties? How does that move forward?

Mr. Howlett: The process would most likely unfold with the arbitrator attempting to establish what is in agreement between the parties. Then they have a list of outstanding issues, and that would form the basis of what would be the final offer selection.

Senator Meredith: You talked about 26,000 employees. The government, as a whole, is looking at restraint and cutbacks. How is Air Canada's financial viability? Can you let us know how you sit right now as a company?

Mr. Howlett: I think, as one of your colleagues mentioned, this is a tough business. It has a razor thin margin. I think the financial issues associated with this industry, as a whole, and with Air Canada, here in Canada, are fairly well documented. It is a very, very tough business.

In terms of Air Canada's financial performance for 2011, we recorded a loss of \$240 million.

Senator Mercer: Thank you, ladies and gentlemen, for being here. I think we need to acknowledge the sacrifice that the unions of Air Canada have made over the past 10 years. One estimate is that the workers have taken \$2 billion in concessions over those 10 years. As well, they refined their pension fund. Their pension fund is underfunded. I would hope that, in the whole process, the company would acknowledge that the unions have been very good in this pretty tough time in the airline sector.

You have made reference a couple of times to the different salary levels for pilots of different types of aircraft. Perhaps it would help to put that in context for us. What would the lowest-paid pilot earn

and what would the highest-paid pilot earn? I recognize that there is a difference of skill set from flying a small plane to flying a 747 wide-body.

Mr. Howlett: Let me try to answer that for you, honourable senator. The top-paid pilot at Air Canada, based on T4 earnings for the fiscal year 2010, earned exactly \$268,781.32. The average pilot salary is \$143,000 annually, and that excludes a pension, benefits, and health care costs.

If you want to contrast that, for comparative purposes, against your average management salary, again, it is —

Senator Mercer: I did not ask about that.

Mr. Howlett: It is \$69,000.

If you want to know who the lowest paid pilot would be, it would be a new entrant. They would come in at around \$40,000 to \$42,000 annually.

Senator Mercer: That is quite a range, from \$40,000 to \$268,000.

We want to talk about management salaries and so on. We might want to get into how much money certain former executives took with them as they left a company that was in trouble, but that is not why we are here today. The public is well aware of that, as are people here.

I think it was Senator Segal who talked about the lack of morale that must be in the management offices and, certainly, among the rank and file of the various unions. I understand that. However, I would think it would be pretty comfortable in the management offices because every time we get to a dispute where there is a hint of trouble and where we have had a union reject a tentative agreement negotiated by their team, we end up here. This is pretty easy for management. You do not have to, I would think, be sincere and sit down and bargain in good faith with a union that is trying to do a good job on behalf of its members. You have the fallback position that the government will always come along and legislate an avoidance of a work stoppage — not legislate you back to work — as we are doing in this case.

[Translation]

Ms. Sénécal: We would like to point out that we have negotiated six agreements with the representatives duly chosen by each union. We negotiated in good faith and reached an agreement that they recommended. That is why we are in this situation. In the case of flight attendants, it has happened twice.

[English]

Senator Mercer: The training of pilots is an expensive operation, as we know. I heard about this testimony before the Standing Senate Committee on Transport and Communications. They are in the middle of a study of your industry, and it is not all roses, by any means. We have heard that the cost of training pilots is extremely high. Who bears that training cost? When you hire a new pilot at \$40,000 or \$42,000, he or she comes to you as a trained pilot with, I think you said, 2,000 hours flying time.

Mr. Howlett: Minimum.

Senator Mercer: They probably have a minimum qualification on a certain aircraft. Who paid for that training, and who pays for the training after they come to work for you?

Mr. Legge: When a pilot is hired, honourable senator, the first course is called a Pilot Indoctrination Course. That is a two-week course, and Air Canada pays for that training. At the end of that course, they are selected to either go into a first officer's position or on to a cruise relief pilot position on one of the wide-body aircraft. In all cases, from the time that the pilot is hired until he retires, Air Canada pays for training, whether it is training on a new aircraft type, which we refer to as transition training, or recurrent training that we conduct on pilots every year.

Senator Mercer: I am making an assumption, and I hope you will correct me if I am wrong. A pilot who comes in making \$40,000, does he or she fly a small aircraft on a short haul route somewhere in Canada? They have not moved into a wide-body international flight.

Mr. Legge: The bigger the aircraft, the higher the pay. Generally, on any aircraft, the captain is paid more than the first officer. The first officer is paid more than the cruise relief pilot.

• (1710)

Typically the smaller aircraft, and certainly for a first officer's position, is where the pilot is going to go, and that would more than likely be the Embraer aircraft, which flies throughout North America. If they were to go as a cruise relief pilot onto either a 767 or a 777, then they would be flying internationally where those aircrafts fly. From that point on, where they move to is strictly determined by seniority number.

The Chair: Honourable senators, that concludes the questions for these witnesses. On behalf of all senators, I thank the witnesses for joining us today to assist us with our work on this bill. You are now free to go.

Honourable senators, I have been informed that there are outside witnesses from certain associations and unions who would be available to be heard. Is it your wish, honourable senators, that we hear from them this afternoon?

Hon. Senators: Agreed.

The Chair: Agreed.

Honourable senators, while the witnesses are changing seats, I have had an opportunity to give some further thought to the question raised by Honourable Senator Ringuette with respect to privilege. It was brought to my attention that this chamber, on October 18, 2011, adopted a motion respecting Wednesdays, and paragraph (c) provides as follows:

when the Senate sits past 4 p.m. on a Wednesday, committees scheduled to meet be authorized to do so, even if the Senate is then sitting, with the application of rule 95(4) being suspended in relation thereto;

I think this information will be of great assistance to Honourable Senator Ringuette in relation to her issue. Thank you very much, honourable senators. We are now awaiting the arrival of officials and representatives of the Air Canada Pilots' Association and others.

Honourable senators, I am pleased to now advise you that we have with us, from the International Association of Machinists and Aerospace Workers, Mr. Chuck Atkinson, the President and Directing General Chairman of District Lodge 140; and Mr. Dave Ritchie, the Canadian General Vice President; and from the Air Canada Pilots Association, we have Captain Paul Strachan and Captain Jean-Marc Bélanger.

I am pleased to welcome representatives of Air Canada's Pilots Association and separately the International Association of Machinists and Aerospace Workers. I would ask each union's representative to make their opening presentations and, after the two presentations are made, I will then open questions for honourable senators. I know that the unions may have different views on some issues on the bill, so I would invite honourable senators, when posing their questions, to indicate, if appropriate, the union to which their questions are directed.

I do not know which of the groups would like to go first. Have you decided among yourselves? It is the pilots. You now have the floor.

Captain Paul Strachan, President, Air Canada Pilots' Association: Thank you, Mr. Chair and honourable senators. My name is Captain Paul Strachan. I am the president of the Air Canada Pilots' Association. I am joined by my colleague, Captain Jean-Marc Bélanger, who is the chair of our Master Executive Council.

We greatly appreciate the opportunity to address the Senate today to give our perspective and that of over 3,000 professional men and women who operate Canada's mainline fleet.

We would like to outline for you why we are aggrieved by the process taken by the Government of Canada to prevent us from negotiating the terms and conditions of our employment with Air Canada.

Our men and women have waited a decade to be able to address both the sacrifices that they made in the restructuring of the airline in 2003 and 2004 and also many of the issues, of course, that have arisen within the collective agreement in addressing the operations of the airline over that period of time.

We are caught up now in a process not of our making, and that opportunity has been taken from us. We were not on strike. We had not given any notice that we would strike. In fact, we had made numerous statements, both in the public and to the government, prior to the Christmas period and again at the spring break period, that we would not strike during these high traffic periods, and we did not.

We have made it clear that we want to continue to reach a negotiated settlement, which is the best settlement for both of the parties, given the complexity of the collective agreement, which

you can imagine is substantial by the very nature of our work. In this vein, we believe that this legislation is uncalled for.

The government's referral of the Air Canada dispute to the Canada Industrial Relations Board under section 87.4 of the code was just about to start — in fact, tomorrow. Of course, that prohibited either party from any strike or lockout during that period of adjudication by the board, so we question why it is necessary at this point to introduce Bill C-33. We feel it is complete overkill, and its passage now makes this CIRB process announced late last week entirely moot.

Air Canada pilots have every reason to be angry at what Air Canada management and shareholders have done to this proud corporation over the course of the last decade. On the heels of the most heinous act of terrorism in the history of mankind, which impacted this industry like no other, followed very shortly thereafter by the largest health pandemic in this country since polio, you can imagine the revenue strain that this airline was under at the time, and the pilots stepped up to the plate. They provided incremental improvements both in working conditions and in wages to the tune of 15 to 30 per cent, depending on who you were specifically, which have provided literally billions of dollars in savings back to their corporation over that period of time.

Despite these major sacrifices, and entirely in the interests of this contributing to the long-term viability of Air Canada, in which no one has more at stake than the 3,000 men and women I represent, they watched the quantum of their sacrifices accrue to foreign investment banks and foreign vulture capital.

• (1720)

To that tune, ACE Aviation Holdings, the holding company created for the purpose of spinning out the former wholly-owned subsidiaries of Air Canada and tearing their asset value out — the full beneficial ownership resident in the shareholders of ACE Holdings — has announced just this week that they plan their final distribution to their shareholders of some \$300 million, which represents the last vestiges of what Air Canada once was. That is in addition to the over \$4.5 billion that has already been distributed from the former asset value of Air Canada.

Despite all of this, our men and women have continued to operate professionally and competently, as they always do, in a very challenging environment. Canada is not the nicest place on earth to be flying planes. They are very, very good at what they do.

Just as we were getting our heads back up above the waterline, we were faced with the largest asset meltdown since the Great Depression. Once again they stepped to the plate, instrumental in engineering a special funding protocol in respect of pension solvency deficits that has provided, again, billions of dollars in liquidity to Air Canada. In fact, it has saved this airline more than \$1 billion in interest it would have otherwise incurred had it had to actually borrow the money and meet the obligations.

Here we are again, Air Canada showing empty pockets. Air Canada says one thing to the street; it says entirely another thing to its employees and to the Government of Canada. It has been noted that very few collective bargaining situations in Canada

ever lead to a strike or lockout position; only a handful do. However, in this case, the entire handful is owned by Air Canada. That should instruct this house.

Yes, Air Canada is in difficulty. However, in spite of all that has gone on in the last decade, where we have rewarded private equity and foreign investment banks for decapitalizing our industry and our national airline, it is still salvageable. There is nothing more than that that the pilots are interested in.

Yes, we want to protect our livelihoods, our standards of living and our pensions, but Bill C-33 is not the way to do it. We have made detailed suggestions on how to improve the sustainability of the pension plan, both to the Department of Finance and our employer. This includes examining issues like the discount rate and the amortization periods. The Canadian annuities market is not large enough to absorb the assets of one of these trusts. Yes, they are in trouble but they are not basket cases. Why, then, do we attempt to emulate fictional annuities that we could not possibly invest the trusts in? Clearly there needs to be some more accurate measure of expected performance. These are simple issues that have not been addressed by the Government of Canada.

It takes time to negotiate. I mentioned the complexity of our collective agreement. In fact, it is 346 pages long. It is an incredibly complex document, and it covers every aspect of our relationship with the employer. It is the result of 60 years of constructive and cooperative collective bargaining, as contemplated under the laws of Canada.

This time, we are being denied. Over the years we have negotiated progressive improvements to pilot fatigue regulations and flight time and duty time regulations. Canada's prescriptive regulation regime is among the most onerous on the planet. The Air Canada pilots have expended bargaining capital through the collective bargaining process to improve upon that to achieve a regime that bears reasonable resemblance, if not entire parity, with other international jurisdictions. We have also advocated strenuously for the improvement of Canadian regulations; in fact, we have been in front of most of the safety improvements that you have seen in this industry, both as the Air Canada Pilots Association and as its predecessor, the Canadian Airline Pilots Association.

The most important point that you need to consider in respect of this bill is that safety and security — public safety — is the number one priority of Air Canada's pilots. We take it very seriously, as well you would expect, and we should. We are the last line of defence on both of these issues. When the plane leaves the gate and the cockpit door is closed, we are responsible.

I mentioned that we did not strike. In fact, our employer announced its intention to lock us out as of midnight last Sunday. I just heard a representative from the corporation tell this house how expensive that would have been in terms of lost revenue to Air Canada. His estimate, not surprisingly, was the same estimate that I have been using as we have gone along here — about \$30 million a day. Is there any honourable senator in this chamber that believes that Air Canada was prepared to lock its pilots out and suffer that degree of lost revenue? That would be \$200 million in lost revenue in a week. If there is anybody who believes that is the case, then

you must also agree that the shareholders of Air Canada and the board of directors of Air Canada ought to be looking very skewed at the executive of this corporation if it was prepared to endure that. I submit to you that it was not.

While we strenuously disagree with the process and many of the provisions of Bill C-33, to mitigate the damage that this bill might do, we would ask honourable senators to consider four amendments that would make it reasonably fair.

The first is that this arbitration is to be a final offer selection — very draconian; no compromise possible; no introduction or application of the expertise of an arbitrator brought to bear. Make it a regular-interest arbitration.

Second, the arbitrator is to be appointed by the minister. This should be agreed to by the parties. That is a basic principle of labour relations in this country.

Third, in clause 29(1), the arbitrator must decide within 90 days of appointment. This is a 346-page collective agreement, and 90 days is not enough. We say make it 180 days.

Four, clause 29(2) directs the arbitrator in the substance of any award in making his or her choice of final offers to those issues still under dispute to focus on the viability and competitiveness of the employer and sustainability of the employer's pension plan. This is highly unusual and highly one-sided.

Regarding point 2, I heard last night and was told that the minister was prepared to consider consultation on the appointment of an arbitrator, and this is a welcome start from our perspective. Nonetheless, the effect of these provisions makes the bill in the process totally one-sided.

Mr. Chair, honourable senators, thank you for your attention and the opportunity to provide my perspective. I would like to provide my colleague a few minutes to do the same in the other official language, after which we would be happy to take your questions.

[Translation]

Captain Jean-Marc Bélanger, Chair, Master Executive Council, Air Canada Pilots Association: My presentation will not be a repeat of what my colleague just said. I am going to continue our presentation in French.

My name is Jean-Marc Bélanger. I was just elected Chair of the Master Executive Council of the Air Canada Pilots Association. I have worked for Air Canada for 32 years and logged over 18,000 flight hours.

As pilots, we follow the rules, and we have a lot of respect for this country's democratic and parliamentary process. We have to assume that, when bills are introduced by our parliamentarians, they are in the public interest. Yesterday's vote was not unanimous. I must say that the Air Canada Pilots Association considers the bill that is in the process of being passed to be unconstitutional. We have asked our legal advisors to challenge the constitutionality of this legislation, and we are also going to request that an interlocutory injunction be filed as soon as possible, as soon as the legislation comes into force.

We have a problem with a number of aspects of this legislation. One of them, which has been mentioned, is air safety. The Minister of Labour must not have spoken very much with the Minister of Transport, because there are specific provisions of the Aeronautics Act and the Air Regulations whereby only pilots can decide whether they are capable of working.

• (1730)

Our colleagues who were here were just pressuring us and saying that if we think we are incapable of working, they will consider that an illegal strike action. This decision and this attack on our fundamental rights are so serious that I asked for the support of pilots from other airlines in the country. I received the unequivocal support of pilots from WestJet, Air Transat, Jazz and Canadian North. We are all in agreement, and you can contact them. We have to fight this attack on our key fundamental rights.

For 60 years, we have successfully improved this country's air safety measures so that the accident rate per thousand hours of flight time is very low. This is due in part to our pilots' professionalism, experience and expertise. I am not just talking about Air Canada pilots. Canadian pilots in general, along with Australian pilots, are very popular throughout the world. We have the most experience for all sorts of reasons, including the fact that our countries are big and we make a lot of flights.

I have to tell you that we are going to fight this provision. I am sure you agree that you do not want a stressed-out pilot flying a plane. The Aeronautics Act and the Air Regulations do not just allow us to do so, but order us to do so. If I were unable to do my work for medical or other reasons and I continued to fly planes and someone reported me, my pilot's licence would be revoked immediately, and that is good. Pilots have to be accountable in that regard, but so do the airlines.

I have with me an interesting speech by a senator from Australia's upper chamber, Senator Xenophon. I have copies of his speech for you. This speech sheds light on what happened at Qantas airlines in Australia, the complete dismantling of that airline, which was once the pride of the industry, the lowering of air safety standards and the development of discount airlines based outside Australia that are picking up all the traffic Qantas formerly handled.

Our CEO said he wanted to emulate Jet Star. Unfortunately, here in Canada, that would be the end of our aviation industry from the point of view of aircraft operation. With all due respect, Air Canada pilots would not agree to take that direction. The best pilots for piloting planes and all of Air Canada's planes, whether planes to vacation destinations, cargo planes or discount aircraft, are still Air Canada pilots. People might want discount airlines, but you will never have discount piloting in Canada.

The problem we have with senior management is with Air Canada's lockout notice. The bond of trust has been broken. I wrote to senior management to try to restore that trust. In our daily operations, we have to have that bond of trust. There are a number of provisions in our collective agreements and in our operations outside the collective agreement, for example, safety measures having to do with our responsibilities in the event of an accident or incident, having to do with the confidentiality of the

air safety reports we prepare in order to improve that safety, and all the provisions that require a mutual agreement between the two parties in order for this to continue to work. All of this was compromised when senior management decided to lock us out. This raises serious air safety issues, and Transport Canada inspectors have been notified with regard to pilots of Canadian airlines.

That is the end of my presentation. Thank you for your attention, and I will answer your questions in French later. For those wishing to ask the Pilots Association questions in English, Mr. Strachan will answer.

The Acting Chair (Senator Fortin-Duplessis): Thank you, Mr. Bélanger. I will now call on Chuck Atkinson, President and Directing General Chairman of Transportation District 140.

[English]

Dave Ritchie, Canadian General Vice President, International Association of Machinists and Aerospace Workers: Mr. Atkinson is with me, and he is the President and Directing General Chairman of District 140.

I would like to thank everyone for the opportunity of being able to bring our concerns to you. On behalf of the International Association of Machinists and Aerospace Workers and the 8,600 people we represent, we would like to take this opportunity to thank you all.

We are deeply disappointed in this misconceived legislation that takes away our members' right to strike and fundamentally undermines collective bargaining in the federal jurisdiction across Canada.

We have been bargaining in good faith with Air Canada for several months. After failing to reach a settlement, our members voted a strike mandate. We gave notice of our intention to legally strike under the terms of the Canada Labour Code as of 12:01 a.m., March 12. Even though we had served strike notice, we were prepared to bargain right up to the deadline to reach an acceptable agreement. While our strike action likely would have stopped Air Canada's operations and caused inconvenience to some Canadians, there is no evidence — contrary to the labour minister's claim — that an Air Canada strike would have had a significant negative impact on the Canadian economy.

Unfortunately, the minister has intervened in this dispute, first by the referral of the Canadian Industrial Relations Board under section 87.4 of the code, and now through legislation. Clearly, the CIRB referral was simply a delaying tactic as an Air Canada work stoppage posed no risk to the health and safety of Canadians, a fact acknowledged by Air Canada who has never sought an essential service designation under the code.

Bill C-33 is a direct attack on workers and collective bargaining rights in the federal jurisdiction. Since virtually any strike would have some economic impact, this government is basically eliminating the right to strike for federal workers. This takes away a fundamental right, the right of workers to cooperate and withhold their labour; the main offset workers have to the overwhelming power of the employer.

[Mr. Bélanger]

While outlawing strikes may seem like a way to enforce labour relations harmony, it has the opposite effect. The elimination of the right to strike undermines labour relations and collective bargaining. Without the consequence of a potential work stoppage, there is little pressure on the negotiating parties to make trade-offs that are necessary for effective bargaining. Without the possibility of a stoppage and the clear air, workplace problems fester and the labour relations climate deteriorates. It does the employer no favour to create an unhappy workforce for the duration of the imposed agreement.

Beyond the fact that it undermines free collective bargaining, Bill C-33 is deeply flawed. As a piece of legislation, it is heavy-handed and tilted in favour of the employer, Air Canada. The bill's use of final offer selection is totally inappropriate. While interest arbitration based on final offer selection may be appropriate where there is a single item or issue to be decided, it is a terrible method for dealing with a complex collective bargaining in which there are many issues and items to be considered and weighed.

The final offer process ties the hands of the arbitrator in crafting a balanced deal that may force him or her to select an unworkable proposal as the lesser of two evils. If the objective is ongoing labour peace, giving an interest arbitration broader leeway to produce a fair settlement is a more sensible approach.

• (1740)

We also have concerns that clause 14(2) of the bill seems to direct the arbitrator to set the tentative agreement of February 10, which was rejected by our membership, as the upper limits of the terms of settlement. This is deeply unfair, as we are working with Air Canada on an improvement to the deal, as the minister intervened.

We have some concerns about clause 34(1)(a) of the bill, which would levy a fine of up to \$50,000 a day on individuals acting in the capacity of an officer or a representative of the employer or the union in addition to a fine of up to \$1,000 a day for individuals or up to \$100,000 a day for the employer or the union itself. While we have no intentions of violating the law or counselling any of our members to disobey this or any other legislation, we are concerned about a clear definition of what it would mean to act in the capacity of an officer representing the union. We are concerned that a member who is a steward or a member of a local committee found to be in breach of this proposed legislation might be considered to be acting as an officer or representative and be subject to a \$50,000-a-day fine. This goes beyond any reasonable penalty.

The right to strike is arguably protected under the Charter of Rights and Freedoms and cannot be arbitrarily withheld by a government at its whim. Canada ratified the ILO Convention No. 87, protecting the right to strike. Over many years in back-to-work legislation, prior governments have almost always used ordinary arbitration or mediation arbitration, not final offer selection.

In 2010, the Canadian Labour Relations Board rejected a final offer selection and offered traditional mediation arbitration for Marine Atlantic CAW workers where essential service provisions were invoked. As we speak today, Air Canada and its parent,

ACE Aviation, will distribute some \$300 million to shareholders. You heard Air Canada say that to shut the airline down for one day would cost them \$33 million. Our last offer on the table was worth \$25 million to Air Canada in additional costs — less than one day's shutdown. I cannot believe in my heart of hearts that an agreement could not have been reached had the minister not intervened. The pressure was off, and we are sitting here with a very bad piece of proposed legislation. I appeal to everyone here: Send us back to the table and let us get a collective agreement the only way it should be done — bargained.

The Chair: We are ready for questions from honourable senators. As I said before, honourable senators, there are two separate groups. If you have a specific question, perhaps you could indicate which of the two groups you would like to have your question answered by.

[Translation]

Senator Carignan: My question is for both groups. I will quote Mr. Strachan. In October 2011, you appeared before the Standing Senate Committee on Transport and Communications, and you said:

I think it is essential for this country. As we sit here today, it is absolutely essential. It is a cornerstone of our entire economy.

The collective agreements expired on March 31, 2011. You had an opportunity to negotiate before they expired because notice to bargain is often served before the collective agreement expires. You have had close to a year to negotiate since the collective agreement expired. You have had help from mediators and conciliators. You have signed tentative agreements. When you sign a tentative agreement as a union representative, I imagine that is because you think the agreement is good enough to submit and recommend to the members. The members rejected it, but you did have tentative agreements.

As legislators or parliamentarians, when passing this kind of legislation, we must look at the kind of economic impact it will have on Canadians. Second, we must assess the chances of success in regular negotiations, which worked for nearly a year.

How can you assure us that by continuing to negotiate and by using your right to strike, you will achieve the goal of reaching a better collective agreement than the agreement in principle? Furthermore, would this not be done at the expense of the economy and the interests of all Canadians?

Mr. Bélanger: With your permission, I would like to respond for Captain Strachan. Thank you for your question. Indeed, there was an agreement in principle that was rejected. One of the reasons was partially our fault, or the fault of all members of the Air Canada Pilots Association. The process that led up to that agreement violated the terms of the association's internal constitution. The agreement in principle was not ratified by the executive council. It was voted on by the members without any recommendation. The agreement came with the bargaining committee, but when the members saw that it violated our constitution, the agreement in principle was rejected, the members of the bargaining team were dismissed and the executive council was recalled by the members, which is not an easy process, but that is what happened.

It is a blessing that we did not accept the agreement in principle. Why? Because the language of that collective agreement was vague. With regard to the dismantling of Air Canada into five separate airlines, we would have had to continue negotiating in good faith to establish the terms and conditions of salaries for the pilots who would work in those subsidiaries and the number of aircraft that would be assigned to each airline. No plan was submitted by senior management, and now we see that.

It is fortunate that we did not accept that proposal. It would be like Jetstar, only twice as bad. We would lose a fleet of about 75 aircraft and half our pilots — who would have to renegotiate their collective agreements — and air safety standards would be lowered.

I submit to you that it was a good thing when 75 per cent of our members voted to reject the agreement in principle.

Now, we are ready to negotiate. It will just take a bit of good faith. We have gotten along with Air Canada management for 65 years. Together, we have created working conditions and air safety standards that are the envy of every other airline in the world. At one time Qantas was considered to be the safest airline in the world. Which airline is the safest today? Air Canada.

• (1750)

We win technical awards of excellence, our flight attendants win awards. The quality of our product is not just based on senior management. This product and the airline's operations are generated by people.

The total cost of the pilots' benefits and salaries is 4 per cent of Air Canada's total operating budget. When I take 200 people to Paris, the unit cost per passenger, for my salary and that of my co-pilot, is \$10. Honourable senators, if I did my work for free, you would not really see any difference in the cost of your ticket.

As with the rising cost of fuel, the ability to conduct air operations without accidents and the ability to negotiate in good faith comes at a cost. Having good pilots at an airline is paramount and there is a cost attached to that. We are not being unreasonable. We are not asking for the moon. We are not even asking to go back to the working conditions we had in 2000. We just want to be able to negotiate, to continue moving forward and to help our airline grow.

Call it Air Canada Vacations, Air Canada Cargo, paint the planes pink, load 400 passengers into a plane that holds 200; you name it and we will fly it, and we will fly it safely, but senior management does not understand that.

I hope my answer was not too long. I simply wanted to describe the situation to you.

[English]

Mr. Ritchie: Mine will be a lot shorter. The only things assured in life are death and taxes. I can assure you that we will come up with an agreement, but not under this term. This is a final selection term, and it does not allow us to put down anything better than we already turned down. I want you to think about that.

[Mr. Bélanger]

What we are faced with is having Air Canada come to the table and give something less. Under this term, he has to consider the offer that we turned down as the upper limit, meaning we cannot move ahead. If that is not legislation that protects Air Canada, I do not know what is. This is against working men and women. This is unfair.

Some Hon. Senators: Hear, hear.

[Translation]

Senator Carignan: You refer to clause 14(2) as a limit on which an arbitrator would have to base his decision; however, this clause states:

In making the selection of a final offer, the arbitrator is to take into account the tentative agreement. . .

That does not mean that the final offer is a limit. It is one of the things that the arbitrator must take into account in making his decision. He must also take into account the report of the conciliation commissioner, who is a third party; the conditions of employment that are consistent with those in other airlines; the short- and long-term economic viability and competitiveness of the company; and the sustainability of the pension plan.

The bill covers wages, the company's competitiveness, the sustainability of the pension plan and, in my opinion, all of the relevant information. It seems to me that there are enough elements or parameters for the arbitrator to consider that would justify his going above and beyond the tentative agreement you were talking about earlier.

My question is simple. You are convincing and you seem convinced. With all these parameters, why are you so afraid to go before an arbitrator to get a better offer? Given how convincing you seem to be, surely you will succeed in convincing the arbitrator and getting a better collective agreement.

[English]

Mr. Ritchie: First, I do not read the bill the same way you do. When it says that they are to expect that as the upper limit, "upper limit" means, in my view, that you cannot go any further. That is very important. That is what the bill says. It does not say anything in between. They are to take into account that as the upper limit.

Second, Madam Justice Otis said it was a good agreement. They all said it was a good agreement. Our people went out and said it was a good agreement, but the people we represented said no. They said no. Theirs is the final word, so we went back. We tried to bargain; we tried to get an understanding, and the pressure was on. We did not put it to the point that this was going to be our strike mandate; that is the way it fell this week. We gave notice — pressure on, pressure on. The minister intervened — pressure off. We are still at the table. I waited one week. One week! I had my whole committee ready to go back to the table. We never met once after the minister intervened. That is not how you get an agreement. When the pressure is on, people have got to come to reality and deal with whatever, as the time is ticking.

I can assure you that not one of my members wanted to strike, but, at that point, they had no choice. After all, free collective bargaining is about free collective bargaining. It is not about intervention at all.

It is extremely important that it is preserved. It is not just not preserved because it is an inconvenience to the public or because it may have some economic impact. That is how we preserve our democracy, our dignity as Canadians. That is how we do it.

The Chair: Thank you very much for that answer. The next questions will come from Senator Poy.

Senator Poy: I want to first remark on what Captain Bélanger was saying. I do believe Air Canada pilots are the best. I fly with you not only across Canada very frequently but also overseas.

My question is to Captain Strachan and perhaps to Mr. Ritchie as well. I believe you were saying, if I understood it correctly, that the Air Canada board has been able to spin off their profits to ACE and then declare a deficit. Yet, at the same time, I just heard that ACE is declaring a \$300-million profit to shareholders this year. I do not understand how they can get away with that. Can you explain that?

Mr. Strachan: It is a long story. In short, you have to realize that Air Canada used to comprise all of these entities that were spun out of it. I am talking about Aeroplan, which was, at the time, probably the most successful loyalty rewards program on the planet. You had the regional airlines, an amalgamation of the former Air B.C., Air Ontario, Air Nova, and Air Alliance, which had been amalgamated in a wholly owned subsidiary called Jazz or, around that time, Air Canada Regional. You also had the Air Canada maintenance facility — now called AVIOS — which was spun out. As each of these wholly owned subsidiaries went out the door, Air Canada was paid a freeze value, which was paid before exit from the CCAA court. They established a freeze value on each of these assets when they moved to become new separate entities.

That freeze value, when compared to the actual market value when the initial public offerings of these various entities occurred, was widely different. Air Canada was not paid fair market value, or the true value, of each of these subsidiaries. The difference quite simply flowed to ACE, the holding company that had been set up for that purpose, which owned Air Canada entirely but also owned each of these new entities until initial public offering.

• (1800)

That delta, then, between the value paid to Air Canada versus the value paid by the street was the aggregate that flowed to ACE and ultimately was distributed to shareholders of ACE. At this point in time, and I believe the first disbursement was made in about 2005-, \$4.6 billion is the aggregate to date.

Senator Poy: At the same time, can Air Canada declare a deficit on its own?

Mr. Strachan: There is more to it than that. At the same time, while they were selling the farm, they decided they would still like to get the milk. They attached Air Canada to commercial

agreements with these new entities, which were wildly favourable to the new entity, not to Air Canada, and that has continued to bleed revenue out of Air Canada. It is almost like a distributor cap. It is not meant for storing energy. It is meant for taking it and dispersing it somewhere else.

This is the core issue of why Air Canada has not been successful, and we knew, ex-CCAA in 2004, that it was undercapitalized based on its own business plan.

Mr. Ritchie: When you are talking this kind of money, you can understand why the membership believed that their day should come too. They gave up all this money to keep this airline flying and they deserve fair compensation, not to go back to where they were, but to get fair compensation. I mean, when you think that the President of ACE, Robert Milton, walked away with \$100 million —

Senator Poy: I know, I know.

Mr. Ritchie: We have another chief executive officer with \$17 million, and this gentleman today is making millions. Our guys are saying, “You know what? I would like to be able to send my kid back to hockey, or maybe my daughter to ballet lessons, but I cannot.” Fairness is fairness, and that is what we are faced with out there. The anger of the people is, “When is it my turn?” That is why these agreements have been turned down. People only want their fair share.

Senator Poy: I understand that. Are these points brought up during negotiations and are they made public so that all Canadians know about them?

Mr. Strachan: We try our best, certainly.

To characterize bargaining that has occurred since the rejection by our membership of the first collective agreement — they were so upset with that agreement that they found it necessary to recall about 30 per cent of the executive from office, including our former chair, the position that Mr. Bélanger now occupies. This took us a long time to rebuild. We had to verify recall petitions and we had to conduct recall votes, and they were not all at the same time. They were staggered. Then we called for nominations for new positions and we had to have elections for those. We had to reconstitute our organization and examine what went wrong in the first case so that we did not make the same mistakes again, and then prepare for a return to the table with Air Canada. We did it in pretty quick time.

By the end of early fall, we were getting close to back to speed, and we suggested to Air Canada at the time that we should return to bargaining on November 23. Its response to that suggestion was to file a notice of dispute. We went to a conciliation process then, which ironically began on November 23. In fact, in excess of 60 days — about 70 days — because we had a couple of extensions to that 60-day period — was spent with our committee presenting our opening position to Air Canada. They poked, prodded, asked questions and gave every appearance that they were serious about bargaining a settlement, after which, in the final week of the conciliation, as it turned out, it tabled its first

position, which was a massively concessionary proposal, more so than the agreement that had originally failed so dismally. They gave our folks about a week to examine it, at which point they refused extension to conciliation. We began the cooling-off period and ended up, of course, ultimately in a strike or lockout position.

How many times have we actually been together with Air Canada to deal with material proposals? I would submit to you that you could probably count them on one hand, two at the most. Air Canada has shown absolutely no compunction whatsoever to achieve a bargained settlement — none.

Senator Poy: I am glad we have all the numbers you mentioned on the record.

I have one short question for Mr. Ritchie. When you talk about Air Canada employees, you refer to them as federal workers, but do I understand correctly that Air Canada is a private company?

Mr. Ritchie: Yes, it is a private company, but it is federally regulated. That is why the Minister of Labour has come in with this legislation. Any federally regulated employee in this country comes under that act. That is why I say I think that any federally regulated employee should have concerns about this legislation and clearly about the way this government has acted when people want to get into free collective bargaining and intervention.

I cannot stress enough that I do believe in the free enterprise system, which says that the fittest survive and all the rest. Well, you have to get there. Yes, there is going to be an inconvenience to the public if we strike, but democracy is not built on inconveniences. It is built on principle, and that is what it is about.

Senator Poy: Thank you, Mr. Ritchie.

Senator St. Germain: I have a question to Captain Strachan.

First of all, none of you have to state your qualifications. I have flown over 3 million miles with you people in the last 29 years. I have most likely flown more than that, and there is no question of your high degree of professionalism on the ground and in the air.

I am speaking to you too, Mr. Ritchie, and your people, because obviously we could not do it without your people.

There is no question as to the quality of performance that Air Canada employees provide to the public. It is so huge.

Captain, you pointed out that Air Canada is in difficulty. You spoke of the viability of the employer and you spoke of pension liability. We are living in very tenuous and fragile economic times in the world. If Greece goes down tomorrow, I can tell you that there will be havoc all over the place. I say it is the cheerleaders that are keeping the stock market going right now because there are huge problems out there.

I have sat in the position as the president of a union, so I understand your feelings in regard to being legislated back to work. However, do you not agree, after having said what you have said about your corporation and the tenuous position it is in, that it would be irresponsible of the government of the day,

whoever it would be, and I do not care who it is, not to take some steps? I agree that forced arbitration is not always the best. Actually, as a union president, I have to say it is bad, but there are so many extenuating circumstances. Do you not think it would be irresponsible of a government to not take corrective action that is necessary to protect all Canadians?

Mr. Strachan: Thank you, honourable senator. It is funny that you say we talked about being legislated back to work. I have to make the point again that we never left.

Senator St. Germain: No, no.

Mr. Strachan: You say that our men and women are very good at what they do, and you are quite right. I agree with you. My question to you is, what is the value placed on that? They currently comprise less than 4 per cent of Air Canada's total operating expense — less than 4 per cent. My colleague used the example of how much each passenger might pay you for seven hours of the services of two professional pilots to get you from Toronto to Paris and came up with a total of about \$10 per passenger. That is seven hours, both pilots, and includes all pilot compensation, benefits and pensions — all grossed up, all in. It is less than you would pay for a chicken sandwich, honourable senator.

• (1810)

For argument's sake, if it cost you \$11, would that make a terrible difference in the grand scheme of things? Our position is that it would not. If it cost only \$9, would that save the corporation from the situation? No.

The situation that Air Canada has found itself in, largely as a result of its own design — perhaps not its design but ACE's design, certainly — is such that the pilots could work for nothing and that would not fix the situation.

This asset is so important for you, for the Canadian public and obviously for us. If you really think about it, everybody's interests lie on the same side of this issue. The only party over the course of the last decade that is conspicuous by the uniqueness of their interest or their difference from everybody else's interests — including employees, creditors, the customers, the travelling public, and all levels of government — the only party that is different and repeatedly finds itself nearly worthless is the shareholder.

Senator St. Germain: I appreciate the method and the way you put the situation forward. I guess you have answered this question to Senator Poy and Senator Carignan, but where is the money going? It is going into a corporation. However, to me, we are still looking at the entire country. That is how important you are as an entity in our economy.

I just hope that you can find it within yourselves to work through this dilemma because it is important to all of us. I will leave it at that. Thank you very much for your response.

Senator Mercer: Thank you, chair, and thank you, gentlemen, for being here. I am sorry you are here; I think this is a terrible piece of legislation. It seems to me that someone made the

reference to the Charter of Rights and Freedoms; to a certain extent, this removes your freedom of association and your freedom to negotiate.

I can only imagine the costs that would be involved, but have you thought to challenge the legislation in the courts? Unfortunately, the burden is on you and other unions to do this, but it would be nice, quite frankly, if someone would challenge this government in the courts and we would get a ruling that would stop this foolishness once and for all, so that a bill does not appear every time there is a hiccup in negotiations between Air Canada and its unions, Canada Post and its unions, or any other industry that they deem to be a necessity and for which they introduce legislation. They are introducing legislation now when there is no work stoppage. I find that amazing.

Have you thought about coming together and challenging the constitutionality of this legislation?

Mr. Ritchie: This particular legislation is already being challenged, senator. It is being challenged by the postal workers, and they are back to work, which is a similar thing. It is being handled with it. There is a constitutional challenge on whether the government of the day had the ability to do what they did.

This is only a compound of that legislation. The Canadian Labour Congress has acted as an intervenor. We are a member of the congress and thereby will be paying into that mould in order to get this done.

I can tell you that is there; we intend to do that. Again, that is for all of labour — not just for us but for the principle of pre-collective bargaining and what this government or any other government meant, when we ratified Convention 87 of the ILO, which allowed our right to legally strike.

Senator Mercer: Does that mean you will rely on your collective grouping for standing before the court, or will you ask on behalf of, say, the pilots union and the machinists union to have separate standing before the Supreme Court to add some weight to the presentation before the high court?

Mr. Ritchie: We will intervene.

Mr. Strachan: I would answer that, honourable senator. Our organization will definitely be challenging this, and we are in kind of a unique position here, as you can imagine.

It is funny that everybody notes the importance of Air Canada and how important it is to the national economy, but I wonder where everybody's concern was while it was being torn apart.

Senator Moore: That is right.

Mr. Strachan: This act is incongruous with the Aeronautics Act. That is the essence of our point in respect of the pilots. It may be incongruous with the Charter of Rights and Freedoms and the Canadian Human Rights Act. It is certainly beyond any reasonable measure of fairness or common sense.

Therefore, yes, we will be challenging this legislation.

Senator Mercer: It seems to me that we have had some skulduggery going on here for some time, from the time that Mr. Milton came. If we wanted to find a starting point, we could begin with Mr. Milton's arrival to restructure the airline and his departure with his handsome payout of \$100 million.

The issue is with respect to the pilots, in particular. I asked a question about salary range, and according to the company, which was here before you, it is \$40,000 to \$268,000. That is a pretty broad range; I am sure the range is not the same in the machinists union. In my experience in dealing with unions and with labour negotiations over the years, I have not seen that kind of disparity from the low end to the high end.

In your tentative agreement that you may have had with the airline, was the low end of this range an issue? In this day and age, \$40,000 is not a lot of money, and it is not a lot of money for someone who is also expected to live the kind of lifestyle that someone in your industry must.

Mr. Strachan: Certainly we have what I would characterize as probably a classic deferred wage scheme in concert with our pension. You are quite right in that the entry-level salary is very low. I spent 10 years in the air force and a couple years at another airline before I joined Air Canada. I think my starting salary at Air Canada would have probably been in the low to mid \$30,000 range. I would have earned in that neighbourhood, with a moderate increase in the second year, depending on the position at the time. The pilot assigned to that could possibly be extended to a third year, at which point I would make the transition then to what we call formula pay, for which you would get a sizable increase then in your third or fourth year. At that point you would probably typically end up around the \$80,000 or \$85,000 range and start moving from there. It is all predicated on your ability to progress to larger pieces of equipment and/or captaincy of the aircraft.

The average earnings for a pilot, and we have 3,000 and change —

Mr. Ritchie: It is about \$100,000 a year.

Mr. Strachan: The average would be around \$100,000 or a little more than that probably. Total pilot compensation was just over \$400 million last year on revenue of \$11 billion and change. It is less than 4 per cent of revenue. Unfortunately, costs are almost the same as revenue.

The important note is that we often get compared to other airlines. There are many other pilot groups in Canada who are making more money than Air Canada pilots — notably WestJet.

Senator Mercer: The company said the average salary for pilots was \$143,000.

Mr. Strachan: That does not add up, if I do the math.

Senator Mercer: It was interesting to me. I wanted to ensure you were aware of what they said.

• (1820)

It struck me as kind of strange, especially when I thought that there was a much lower —

It seems to me that the airline does not have to negotiate in good faith at all, because every time there is a bump in the road they are here to solve the problem and we were here to oppose them.

Do you see that at the bargaining table? I have been at the bargaining table at a number of levels, and when one team thinks that they have the other team by the you-know-what, the negotiations are not moving very far. Has the threat of this legislation — even if it was not said but implied — been the big elephant in the room?

Mr. Ritchie: Absolutely.

Mr. Strachan: Certainly it has. I mean, just look at the special mediation that was recently convened under section 105 of the code. It was some 23 days into that process where we had the first meeting with the other party, Air Canada, at which it dropped an absolutely onerous proposal on the table. It then put a 24-hour gun to our head and said, "Take it or leave it, and if you do not take it within 24 hours —

Senator Mercer: My final comment, chair —

Mr. Strachan: This was supposed to be up to a 180-day mediation, we understood.

Senator Mercer: It seems they provoked this legislation to get themselves out of a bind. Thank you.

Senator Di Nino: Welcome to all of you. First of all, I would like to associate myself with Senator St. Germain's comments. We believe the machinists, pilots and everybody else who works for Air Canada do a very good job, and we appreciate that.

Let me start by stating that your two organizations really are part of a company in a very privileged position that has a role as an important driver of the Canadian economy, as well as being a responsible and vital partner of the economic team of this country. Having made that comment, let me address a question to the pilots.

From what I understand, after the expiry of the collective agreement about a year ago now — March 31, I believe it was — on March 17, 2011, the parties reached a tentative agreement subject to ratification by the union membership. On March 19, the membership voted to reject. Shortly after, the union membership replaced — or should we say fired — its executive bargaining team.

On we go, and we continue. A conciliation process was started, extended and negotiations went on. Once again an agreement was reached, and on February 14, the union membership voted 97 per cent in favour of strike action.

What has not been said here, which I think is appropriate to put on the record, is that not far after — I think it was the beginning of March — the company gave notice of a lockout.

In its responsibility to all Canadians, particularly at a time when we are going through a very fragile economic recovery, the government has to take some action.

Frankly, I believe the message to the government was pretty clear: There is going to be no agreement. The government's responsibility to each and every Canadian is to protect them from the fallout of a shutdown of Air Canada.

I ask the pilots' association, and you can answer this if you wish Mr. Strachan, how do you see your role in affecting your responsibility as that important partner that I spoke of, on behalf of all Canadians?

Mr. Strachan: I think our organization does that every day, sir. In fact, we have cooperated with this government and assisted it on several files on international air policy and aviation security. Of course, we deal with them on a daily basis. We have a unique view from our vantage point in respect of security issues. Obviously, we are entirely at the forefront in regard to safety issues. A whole division of our organization is dedicated to flight safety and nothing else. There is certainly no association with the political or representational responsibilities of the organization, such as collective bargaining. There are an awful lot of things that this organization does that are very good and that contribute very meaningfully to what you are suggesting.

The situation here is simply this: In the presence of this threat of government intervention, there has been no onus on Air Canada to sit down with us and conduct meaningful discussions to achieve an agreement. That is the net effect of the government's policy adopted here. I am not quite sure how else to address what you are saying.

Senator Di Nino: My question goes a little deeper than that. I think we have all acknowledged, or at least some of us have acknowledged, that in the responsibility you have as pilots, I believe you take it seriously and do a very good job.

However, as an economic partner, a shutdown, even for a short period of time, would have tremendous impact on jobs, the well-being of Canadians, and family reunifications that look to the airline industry to keep in touch in a huge country like Canada. It is more than just doing your job, which we believe you do well; it is also about being part of the economic engine of this country. The government cannot allow a shutdown, whether created by you or the airline company, to go on because of the huge costs to every other Canadian. Do you not feel a responsibility there?

Mr. Ritchie: Senator, let me —

Senator Di Nino: I will come to you in a moment, sir.

Mr. Strachan: You mentioned the responsibility of pilots, and that is one that they accept very well. Do they get to participate in the benefits, too?

The part that really astonishes me in all of this is there was no crisis. You are talking about a work stoppage. Good grief, that is the last thing we ever wanted. If I said it once, I said it 30 times: We did not engage in any industrial action whatsoever. Right up until this point today we have not done it. We said we would not do it, and we did not do it. We specifically assured people at Christmastime and reassured them at spring break that the pilots would not interrupt work, and they have not. The whole time this sad charade has played out, the pilots have been going to work and the planes have been flying, so where is the crisis?

Why can we not be allowed the basic right to sit down and negotiate our terms of employment with our employer? It was in no jeopardy from us. In fact, its jeopardy was its own. The government ostensibly in the case of this one organization had to step in to do what? To protect the corporation from itself?

Senator Di Nino: As I said before —

Mr. Strachan: I am saying that approach by the corporation characterizes everything that has happened in the last year.

Senator Di Nino: As I said before, the way I see it, there is a dispute between three parties in this case. Let us talk about the pilots, two parties, and both of them seem to have come to a position where an agreement seems impossible. Government has responsibility.

I will turn to Mr. Ritchie now. I have the same question for you as well, because you really are no different. You are part of the same team — that privileged position that I talked about — as being part of a very, very important component, a partner in the economic well-being of this country.

I would like you to answer that, but I also want to challenge you on your statement that I wrote down and I hope I am correct. You said a shutdown would be an inconvenience to some Canadians. There is an estimate that a million Canadians would have been impacted, particularly at this time of the year when there is so much family time spent with kids out of school, so they can spend some time together to renew their relationship and love for each other. That is more than just “some” Canadians.

• (1830)

Mr. Ritchie: If it was 5 million Canadians, it is an inconvenience. Democracy does not have a price. We just spent billions of dollars going around the world to bring democracy to people. We lost 153 great men and women of this country trying to bring democracy to Afghanistan, and you are talking to me about me not having my rights as a Canadian and that my rights are inconveniencing people and, thereby, my rights are being overridden? I do not apologize, sir. As a Canadian, I am proud to have those rights and I do not give them up for anyone's inconvenience, whether it is 1, 2 or 5 million. Believe you me, they are my rights and I am not about to give them up.

When you ask me if I have a responsibility on economics, I certainly do. Someone told me years ago: Those that have the gold make the rules. Air Canada is in the position of stopping this and, because I did not go with what they want, I am the bad guy.

Negotiations are a two-part system, senator. You come, you both try to do what you can, and you both have to suffer. When you have people prepared to say, “You don't have to worry; I've got your back,” there is no suffering. That is exactly what happened to Air Canada. Someone had their back, they did not have to suffer, and guess what? We do not have an agreement.

Senator Di Nino: Thank you for that response, but I did not ever speak about the denial of rights. I spoke about the responsibility of the Government of Canada to act when actions taken by any component of the society will impact on the general society.

Mr. Ritchie: By doing so, they are denying my rights.

[Translation]

Senator Dallaire: I completely agree with you. Having served this country, I agree with your position even more. Never back down.

Captain Bélanger, there is still the matter of professional ethics. You have very effectively set out what you do not want and that is pilots who have to work in a stressful situation in which they are uncomfortable in their job and are not able to fully concentrate on their work. God only knows that I have been in similar situations and these people need to feel protected and supported in order to be able to fulfil roles where lives hang in the balance.

We are not talking about whether someone is going to get a letter or a cheque in the mail. We are talking about people who will either get to their destination safely or who may die on the way. You have an enormous responsibility, which is difficult to quantify, particularly for public servants here in Ottawa who are trying to make calculations. All headquarters act this way.

What is your ethical responsibility in the situation in which you are going to find yourselves. If this bill passes, you will be in an adversarial position. You will have other thoughts, other focuses. Will your pilots be able to continue providing the good service they do now? Will they take other steps to ease the stress they will feel after a situation they find unacceptable has been imposed on them?

Mr. Bélanger: That is an excellent question. My responsibility is not only to my passengers and the travelling public but also, as chair of my association's executive council, to our pilots. This is an important responsibility because, in Canada, a pilot assistance program has been developed. I am not sure if you are aware of it. We are the first to have a program of this kind. It took a strike in 1976 to achieve this three-part system, which includes the medical department, the management of air operations with Air Canada's senior management and the pilots association. And we manage the stress.

When someone in our organization loses his mental faculties, we take him in hand, care for him, treat him and ensure that he is able to return to work. If he is not, we take care of that as well. There is a whole management system so that my fellow pilots are not subject to any factors that would reduce their mental capacity.

or their ability to work. We are the first in the world to have a program like this and it has been copied by other pilots associations.

In that sense, we have managed to protect the travelling public by being innovative. The new Aeronautics Act has brought changes to air regulations. Together with representatives of the Department of Transport, we had a role in ensuring that the air regulations evolved. What we have before us today is not a wish, but an obligation imposed by the act to declare us unfit to work. I must say that, at present, all Air Canada pilots are going through a collective divorce. My company is divorcing me. My company has told me: I will show you to the door because I do not have faith in your skills and we are unable to come to an agreement. The government is only throwing oil on the fire by giving Air Canada so many powers. There are no consequences for the actions of Air Canada's management.

We are very worried about this and, for that reason, other groups of pilots across the country support us. We should clarify that because it is important.

I promise that we, the Air Canada pilots, will not fly any aircraft if we are not in full control of our faculties. We have all the mechanisms to do that. The company has just notified us that they were about to consider it an illegal strike. We will refute that. We will ensure that pilots are fully capable of taking the controls. It does not mean that everyone will stop working.

Everything that is going on, the stress and the different layers of stress that accumulate over time, has an impact on our airline operations. The only way to change that is to re-establish the trust we had with our management. They must clearly tell us, "You are the best. We chose you. We are going to grow the airline. Let us sit down together and run all these airlines." We do not want to emulate the Jet Star model.

Senator Dallaire: When he was in office in the 1980s, President Reagan had problems with the air traffic controllers. He decided to settle the matter by throwing them out. That is what he did. He fired them all. Then they rebuilt.

What if you are faced with this legislation and are in a stressful situation where you find that you are compromising your ability to do your job. In those conditions, are you in a situation where the government is putting us at risk by keeping you? Should it fire everyone so as to not put anyone at risk, and then start from scratch?

Mr. Bélanger: I do not know what you would think of that, if you were a pilot. First of all, we cannot easily be replaced. Second, the example of the Americans and their air traffic controllers does not apply.

Let me give you the example of the Qantas pilots. Their airline is dying. Where are the jobs going? Vietnamese, Chinese and Japanese pilots fly Jet Star planes based in Hanoi, Singapore and Tokyo, for airlines serving the interior of Australia. I have before me a speech given by Senator Xénophon in the Australian upper chamber that explains this issue.

[Mr. Bélanger]

Exactly the same model is appearing right now in our negotiations with Air Canada. They want to dismantle the main network, move on to secondary networks, and have people with less experience. That is the plan. If we make too much noise, they may get rid of us. I would remind you that a pilot's experience is very important. A man named Bob Pearson glided a plane into Gimli in 1983. Another pilot, Robert Piché, saved everyone on board in the Azores in 2001.

• (1840)

Last year in Singapore, Richard de Crespigny, a pilot with Qantas, saved an airbus A380 full of passengers. The plane was headed straight for a crash landing.

Let me give you a recent example. When Chesley Sullenberger appeared before the American Congress, he said, "You people who are putting pressure on the profession, if you continue to reduce working conditions and airline safety regulations, we will no longer be able to attract the best people to the profession and standards will drop."

The American pilots who demonstrated during the Occupy Wall Street movement said they did not know anyone in the industry right now who is encouraging their kids to become pilots.

We are lucky in Canada. The country needs pilots in the Canadian Forces. In Canada, there are people who not easily intimidated. Some have dropped laser-guided bombs while being fired upon by the enemy. They did so to defend their country. Others have led search and rescue operations by air, while others have piloted ski planes from the North Pole to the South Pole, discovering the entire geophysical reality of the planet.

We know that Air Canada has good pilots. Some pilots start with Air Canada at \$39,000 a year. They are paid less than pilots at Air Transat, WestJet, Canadian North and Jazz. At WestJet, the starting salary is \$62,000 a year.

The Rio to Paris flight crashed into the ocean because of pilot error. The two co-pilots at the controls had less experience than Air Canada's newest recruit. The captain of that Airbus had less experience than all of the co-pilots working on my jumbo jet. I am giving this background information so that you can see how lucky we are.

Honourable senators, help us maintain our professionalism and experience, which we export around the world. Our pilots are in great demand. I can tell you that, with 32 years of service and nearly 20,000 flying hours, if the government fires me, I can easily get a job in China or the Middle East that pays better. But then I would not be able to live in my country.

[English]

Senator Segal: I want to try to clarify something that I heard our guests say at the outset, which I cannot find any textual support for in the bill. I may have misunderstood what you said. I think I understood you to say — I am sorry, I do not recall which one of you gentlemen said it — that the arbitration process was tainted because it could not go above what the last offer had been. I think I heard someone say that.

I look at clause 14(2) of the act, and, if there is something I am misunderstanding, I hope our guests will help me understand it. It says:

In making the selection of a final offer, the arbitrator is to take into account the tentative agreement reached by the employer and the union on February 10, 2012 and the report of the conciliation commissioner dated February 22, 2012 that was released to the parties, and is to be guided by the need . . .

I do not see the words that say that it cannot exceed, cannot provide for more than that.

Clause 16 says:

Nothing in this Part precludes the employer and the union from entering into a new collective agreement at any time before the arbitrator makes a decision and, if they do so, the arbitrator's duties under this Part cease as of the day on which the new collective agreement is entered into.

I am not a specialist in labour negotiations. My grandfather helped start the International Ladies' Garment Workers' Union on the streets of Montreal. Let me tell you, Mr. Ritchie, when he did that, starting a union was against the law and demonstrating was against the law. He went to prison in support of that. In no negotiation would he ever have cited Canada's war dead to make his economic case, just so you and I are clear about that.

I want to ask the witnesses today to help me understand where in the bill you found the notion that the arbitrator could not go above, based on what seemed to be a fair process. If I am misunderstanding, I very much look forward to your clarification.

Mr. Ritchie: First of all, I am proud to be a Canadian. My father, who was a war veteran, went over there and fought for your father to have those rights. You know what? All of those people that we send, day in and day out, are fighting for our rights, and I will use them at any time, brother. I want you to know that. I am proud of those people and of my four nephews who serve in this army today. I have nothing to apologize for, thank you very much.

Let me just say to you, going back to your question, that it does say in the bill — and you need to read it — that, under clause 14(2), they are to use that as the upper limit.

Senator Segal: No, it does not say that. It says "take into account." That is different.

Mr. Ritchie: It is in the bill, sir. I have to tell you, I would not put it down if it was not there.

Senator Segal: It is not there.

Mr. Ritchie: You want to read the whole bill.

Senator Carignan: Do you want a copy?

Mr. Ritchie: Yes, I did not bring my copy, so give me a copy and let me take a look at it.

Senator Carignan: It is not the same version? We need to speak about the same text.

Senator Segal: Can I ask a supplementary question?

The Chair: Yes, but he is still checking the notes.

Senator Segal: Thank you. I will wait.

Mr. Ritchie: I apologize because I guess it does not say that, so I am wrong. I think where I come to that conclusion is where it says that he is to take into account the short-term, the long-term conditions, the viability, the competitiveness, the employer and the subsequent, and the employer's pension plan, taking into account any short term or whatever. I was figuring that, if he takes it all into account, that is the upper limit. I apologize that I put that interpretation in.

Senator Segal: Let me first accept your apology without any hesitation, and let me also point out that what various folks have fought for over the years, in various wars, is our ability to disagree on an interpretation, which I think we have just done. That is a legitimate part of the process.

If the government had not intervened at all, if we had gone down the road of the rejection by bargaining units of agreements that their own leadership had reached, then the lockout of Air Canada would have struck me as just as offensive, if I may say so. My supplementary question is to the ask our friends from the pilot union: Is it your honestly held view that if, after all that had transpired, the government chose not to intervene, to say that millions may be inconvenienced but that is life, you would have made progress in the last few days and reached an agreement or been closer to reaching an agreement than you are now? Is that the view that you would wish us to take away from your interventions this afternoon?

Mr. Strachan: Yes, senator. If the expectation of government intervention had not been there all the way along, we would have achieved an agreement.

Senator Segal: Assuming, for the moment, that you would take the view, understandably, that the lockout proposition from Air Canada was unhelpful and unconstructive, is it your view that the government should have stood back and said, "That lockout proposal is of no concern to us; we should not engage. Let them throw the pilots out. Let them throw other employees out. As a government, we have no obligation to protect the rights of the employees and have some kind of balanced approach?" We should stand back and let the lockout stand?

Mr. Strachan: I do not accept that Air Canada actually intended to lock its pilots out. It is \$30 million a day. If that was the intent of the corporation, I, as a shareholder of this corporation — which I am, by the way — would be looking at this executive with a very jaundiced eye, as in, "What are you doing?"

• (1850)

Senator Segal: It is not the measures that they have taken but their motivation that you question?

Mr. Strachan: Yes.

Senator Segal: Thank you.

The Chair: The next two questioners on the list are Senator Mahovlich and Senator Duffy, but Senator Munson has indicated that he has a brief supplementary arising from Senator Segal's question.

Senator Munson: You have been invited here to express your points of view. Does this change anything? We in the Senate like to look at ourselves as sober second thought, but does this change anything? You get a bunch of things off your chest. You have your views; the government has their views. At the end of the day, the government, with its majority, will just stamp it done. Why does this process matter?

Mr. Ritchie: I think it matters on the basis that, as I have said all along, we live in a free democracy, and that means we have the right to express that view. Just maybe there are some people in this room that did not quite get the full picture, and we are giving them the full picture. Just maybe they would have it within their hearts to think that they can do the right thing by sending this back to the government.

I want you to keep in mind that we are in a process under the CLRB, under 87(4), anyway, so we cannot strike while we are under that process. That is there. However, they can send this bill back and say, "Look, if we have to intervene, why not do the right thing? Why not take this final offer selection off, send them to mediation, arbitration, having it as a final decree, and let it happen?" We could put everything else in there. Give the people at least the belief that they will be heard, that they will be understood and that they have a third party who can say, "You know what? You are not completely right, but you are not completely wrong." In this circumstance, we are either right or we are wrong. He either picks Door A or he takes Door B. We cannot create a Door C. That is why this system is flawed, because it is "winner takes all." In free collective bargaining, that is not what it is meant to be.

If anything, I would appeal to everyone in here to send it back and come up with some stuff. We cannot take action anyway because it is in the process. Tell them, "Look, put a process in that at least appears to be fair." At least it gives the appearance of fairness. I would ask all of you to do that.

Senator Munson: I am sorry, chair, but he wanted to say something.

Mr. Bélanger: On that very same point, we were asked a question, and I just wanted to respond.

The Chair: Briefly, please.

Mr. Bélanger: It will be very short.

The Chair: This was a supplementary.

Mr. Bélanger: Would you like us to respond?

Senator Munson: Absolutely.

Mr. Bélanger: It is a bit of a cynical question, because you ask me to not believe in this process. You are telling me, "Whatever you say, Captain Bélanger, these people will not listen to you." I have faith in the Parliament of Canada, and I am telling you that this legislation is unfair and we are going to fight it. There are things you cannot do with your pilots. We will fight that, too.

I would like to believe that you have learned a few things from our testimony here tonight. I would like to think that. If you want more information, we will provide you with the information in a welcome fashion.

Please ask the Minister of Labour to talk with the Minister of Transport. The legislation is against the laws of aeronautics. This is fair warning. We came here tonight not empty handed. We opened our hearts to you. Canadian pilots as a whole are the best in the world. We need your support.

Senator Dallaire asked us, "What you going to do?" I submit to you, do not let this industry go down, as it has been attacked everywhere else around the world. One accident is too many. Let us not allow that together, please. There is work to do. I am not trying to be forceful here, but I do not want to have the cynical view that this was all in naught. Please hear us out.

Senator Mahovlich: I am very curious. One of the largest democracies in the world is the United States of America. Can you tell me how many strikes their airlines had in the past, say, 20 years?

Mr. Ritchie: I cannot tell you how many but I can tell you they have happened.

Senator Mahovlich: They happened?

Mr. Ritchie: Absolutely. My union represents the largest number of airline employees in the world, and I can tell you we have struck continuously in the United States airlines.

Senator Mahovlich: Within the past year? They have their strikes?

Mr. Ritchie: Not within the past year. You asked me in the past 20. In the past 20 years, absolutely.

Senator Mahovlich: They have gone on strike?

Mr. Ritchie: Yes, sir.

Senator Mahovlich: And they have survived?

Mr. Ritchie: Yes, sir.

Senator Mahovlich: Thank you.

Senator Duffy: Welcome to our witnesses. I appreciate you coming in. They are having a requiem for Braniff, for Pan American, and for some of the others that have gone down.

Gentlemen, let me say that few groups, perhaps no other group in our society in this country, comes here with more friends and with more appreciation for what you do than the Air Canada team. Everyone in this room flies with you at least once if not twice a week. Most of us have heard the stories of this tragedy of the breakup of the company. We have heard that former senior executives have to have bodyguards to walk through Pearson Airport. When you hear the story of why that is necessary, you have a great appreciation of mistakes that were made in the past.

This is a sad story involving great people and a great airline and great machinists — just the best. They just won another award as the best in the world. It is a sad story that must be fixed. We understand that. However, we cannot fix it in the face of all of the incidents and all of the events that are going on.

In addition to yourselves, we hear, and I hear personally very heavily, from Pionairs, the retirees' organizations. They are terrified that they will not have a pension because tomorrow or next week or three days from now Air Canada will go out of business. They did not believe, and we did not believe when we saw the privatization occur, that it could ever end up the way it has ended up. You guys were right in the middle of it. "Give me this, give me that, a little of this here and there." We know that story, and we know there were wrongs done when they merged Canadian and Air Canada. We remember all the problems with the seniority lists and how we were going to have fistfights in the cockpits. It has been a mess and a tragedy involving people who do not deserve this.

From the bottom of my heart, and I think this is shared by all of the people in this room on both sides, we do not do this with any sense of us and them or, "We're going to get you." We have to find a way to fix the problem with Air Canada. We cannot do it in this room tonight, and we cannot do it when the planes are on the ground and someone we do not even know 3,000 miles away in a penthouse, in a plush mansion in London, pulls a pin, and you are all out of work and the Pionairs are out of their pensions. That is what this is about.

No one disagrees that we have a huge problem that has to be fixed, but we have to find some time, we have to buy some time, and we have to keep you going so that you get your paycheques for your members and the retirees get their pension cheques.

We are not blind in this place. We are aware there are big problems. Somehow, some way, some power beyond me has to find a way to fix it because we need Air Canada. We love Air Canada, we love you, and we love your employees and members. It gives us joy tonight to do this.

When people try and twist it and make it something more, and I hope they will not, we all understand that governments on both sides have had to do this in the last 40 or 50 years. We do not do it with any joy. I promise you this: We will not rest until we fix those problems that put you guys in this corner.

• (1900)

Mr. Ritchie: Honourable senator, the minister put us under section 87.4. Section 87.4 is to decide whether or not there are any health and safety reasons that we should be. Under that, we are stopped from striking. So long as we are under section 87.4, we cannot strike.

This bill does not have to go forward. We are under section 87.4. We cannot strike; we cannot do anything. It allows us to get back to the table, it allows us to negotiate, and it allows us to do everything. Maybe it allows us to go in and get a mediated, arbitrated board, but you do not have to go to final-offer selection.

Final-offer selection works if it is one item. These are very complex issues. They need to be discussed. They need to get a resolution. You may need a third party that says, "Okay. You are right and you are wrong." or "You know what? You are not completely right or wrong; I am going to saw this off." However, under this legislation, he cannot do that.

We have to go in and do our thing, and the employer has to go in and do his thing, and it is either A or B on all these complex issues. Within that scope, he has to look at the economic viability of the airline, the future, the pension and all these other things. When you are weighing those costs, you are saying that you are only adding to the burden. Where does it come out? However, when you are looking at the other and there are compromises there, it can happen.

I say to you that this is not the kind of legislation we need to go. If you have to do what you have to do, allow us to go into mediation arbitration. Compulsory? Whatever. You end up with the same result, but you know what? It is fairer, because we have got somebody who can actually say something and do something that is not quite an A or a B. He can come up with a C solution. That is what I ask that you do. You accomplish all that you need to do, but not with this type of legislation. Please, look at it from a fairness point of view only. It can happen.

Senator Cordy: Thank you very much for being here. I was at a committee meeting, which is why I am late, so perhaps my questions have been answered.

I wonder whether any government in the past has ever brought in back-to-work legislation before there has been a strike or a lockout. I could not find any, but I am not an expert. I thought perhaps you would know.

Mr. Ritchie: I honestly cannot answer that question. I do not know.

Mr. Strachan: We do not normally do this, either, so it is very difficult for us to say.

Senator Cordy: I could not find any examples. I kept looking. I found back-to-work legislation that has been brought in after a lockout or a strike, but I could not find it being brought in before there actually was a walkout or a strike. Maybe you are pioneers, though not in the good sense.

I am wondering also how this type of legislation will affect collective bargaining, not just for Air Canada, but for other unions throughout the country. I think you made reference earlier that if one side in the negotiation knows that there will likely be back-to-work legislation, then what effect will that have on negotiations and collective bargaining overall?

Mr. Strachan: I think it will negatively affect bargaining. I do not think any bargaining will occur under those conditions. You are right: The scope of it goes beyond this immediate issue. It certainly spreads as far as the federally regulated sector, anyways.

I take well Senator Duffy's comments, and I appreciate them. I am a patriot. I fought for this country. I went to war, as Honourable Senator Dallaire did. I believe we met one time actually, General Dallaire, in Europe. You will not remember it, as I was a young captain at the time.

The hangover from this is what concerns me the most. I know the sun will rise tomorrow and life will go on, but there is real injury in this for the people whom I represent, and they are good people. The hangover from this type of legislation will be a long one.

I agree with Senator Duffy that Air Canada ought to be a source of national pride, and I do believe it does provide the best product of any airline in North America. I am very proud of the men and women whom I work with. However, if we are to save this thing, everybody has to be brought along with it. You cannot simply discard the interests of those people in this arbitrary fashion. It is really heavy handed, and it does not need to be.

I am afraid that hangover will be so long and so deep that there will be serious damage in terms of the people who remain as interested as you and I, Senator Duffy, in saving this because I believe it is worth saving. Thank you.

Mr. Ritchie: On the same question, let me just say that I agree: I think it does have a large impact on bargaining. Collective bargaining is meant to be there and both sides get down to what I call "short strokes."

You do not always get what you want, but you know you live for another day, and that is what the collective bargaining does. You do not get everything, but you know you will come back and you will do it. However, you do that with the sense that it is free and open. When someone knows that there is a possibility that they do not have to be as up front and whatever, then you do not have that exchange. That is where we are at.

You have to bring people to the table and they have to want to compromise. That is what life is about. We make compromises every single day of our lives, whether it is with your wife, your kids, whether you will take the car or the bus. Compromise exists every day.

That is what collective bargaining is about, and it is about coming to the point that you may not get everything you want, but you can live with what you get. Both sides were supposed to give a little bit and hurt a little bit. Let us do that — give a little

bit and hurt a little bit. We can do that even under legislation, but this legislation does not allow that. It is A or it is B; it does nothing for the process.

By the way, it does not do anything for the government, either, because they can accomplish what they need to accomplish by going into mediation arbitration. It is exactly the same thing; it is a binding process and it takes away the right to strike, as they have done. The public will not be affected. Bargaining would resume, however.

Here is the key about the little bit: The third party makes the decision on who is being reasonable, us or Air Canada. What can they afford? All of these decisions are made with an open and honest debate, and that is a good process. Unfortunately, this does not allow us that process. I ask for you to give it to us.

Senator Cordy: Thank you.

[Translation]

Senator Rivest: I will continue along more or less the same lines as Senator Duffy. Now that I have heard all of the statements, I am very worried. We were told there would be no rest until we, as Canadians, looked at the situation facing Air Canada and its employees, because we really care about it and we are really worried about the problems it is having. I am imagining myself in the position of Air Canada employees.

Earlier, a senator raised the possibility of continuing negotiations, under clause 16.

• (1910)

I do not see how this clause makes any sense when, in terms of their working conditions, the workers will have to wait for the commissioner's report, the arbitrator's report, and, in addition, this legislation that arrives in the middle of the bargaining process. Ultimately, there will be court challenges and everything that goes with them. I am very concerned and wonder if there is any hope that Air Canada's employees, in the fairly near future, will achieve real improvement in their working conditions through this entire imbroglio that Air Canada and its employees are in.

Do you seriously believe in the hope clause 16 of the bill offers: that, despite everything you are going through right now, it may be possible to extend the bargaining process to its proper end, in other words, with respect and equality for both parties?

Do you not believe that the government's action has just compromised Air Canada's recovery and made it difficult for the fundamental rights of Air Canada's workers to be respected?

Mr. Bélanger: I completely agree. This makes no sense. When we look at the history of the negotiations so far, if there had been good faith and a desire to negotiate, it would have been done despite this arbitrary process the government is imposing on us. It is hard to believe that, while all of this is happening, while we are challenging the legislation and ending up in final-offer arbitration, it is not possible for us to sit down with Air Canada and negotiate in good faith. We might be interested.

I can assure you that that is not the message we got because, for example, last week's notice of lockout tells us that the company is not interested in the least.

We are seeing other signs from Air Canada's senior management that they are trying to put pressure on us. As far as air safety problems are concerned, we have a bargaining committee that can no longer travel because the members have to pay for their tickets; people who work on our committees can no longer be released from their work although we used to have such rights before. These are dangerous little games that are being played. This is no indication of Air Canada's desire to negotiate with us.

You stated a fact and asked me a question. I completely agree with you.

[English]

The Chair: Mr. Atkinson, Mr. Ritchie, Mr. Strachan and Mr. Bélanger, on behalf of all honourable senators here assembled, I wish to thank you very much for coming here this afternoon and not only making your presentations, but answering a whole variety of questions that have helped us an awful lot in our deliberations. Thank you very much, and you are now free to leave.

Mr. Ritchie: Thank you. We appreciate it.

The Chair: Honourable senators, as the witnesses are getting ready to leave the room, is it agreed that we move to clause-by-clause consideration of Bill C-33, An Act to provide for the continuation and resumption of air service operations?

Hon. Senators: Agreed.

The Chair: Is there leave that we do this by grouping the clauses according to the parts of the bill?

Hon. Senators: Agreed.

The Chair: Carried.

Shall the title stand postponed?

Hon. Senators: Agreed.

The Chair: Carried.

Shall clause 1, the short title, stand postponed?

Hon. Senators: Agreed.

The Chair: Carried.

Shall clause 2 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clauses 3 to 17 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clauses 18 to 32 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clauses 33 to 38 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clause 1, the short title, carry?

Hon. Senators: Agreed.

The Chair: Shall the title carry?

Hon. Senators: Agreed.

The Chair: Shall the bill carry without amendment?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Honourable senators, shall I report the bill without amendment? Carried, on division?

Some Hon. Senators: On division.

The Chair: Carried.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Donald H. Oliver: Honourable senators, the Committee of the Whole, to which was referred Bill C-33, An Act to provide for the continuation and resumption of air service operations, has examined the said bill and has directed me to report the same to the Senate without amendment, on division.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

APPROPRIATION BILL NO. 4, 2011-12

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-34, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2012.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

APPROPRIATION BILL NO. 1, 2012-13

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-35, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2013.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, as we have now gone beyond Government Business, and it being past 4 p.m., therefore by its orders of October 18, 2011, I am required to declare the Senate continued until Thursday, March 15, 2012, at 1:30 p.m.

(The Senate adjourned until Thursday, March 15, 2012, at 1:30 p.m.)

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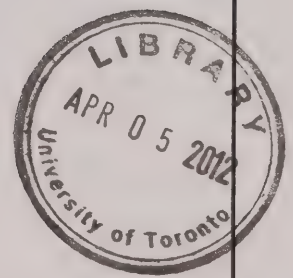
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(HANSARD)

Thursday, March 15, 2012



The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Thursday, March 15, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of His Eminence Thomas Cardinal Collins, Archbishop of Toronto; and His Eminence Jean-Claude Cardinal Turcotte, Archbishop of Montreal.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

SENATORS' STATEMENTS

BRAIN AWARENESS WEEK

Hon. Jim Munson: Honourable senators, this week is Brain Awareness Week, a worldwide campaign to draw public attention to the incredible and important advancements being made in the field of neuroscience.

Last month, I had the opportunity to visit the University of Victoria and meet with representatives of NeuroDevNet, a Canadian network of centres of excellence dedicated to helping children with neurodevelopmental disorders.

The network's current areas of focus are autism spectrum disorder, cerebral palsy, and fetal alcohol spectrum disorder.

NeuroDevNet's mission is to understand the causes of these disorders and to share findings with partners so that they can translate this knowledge into resources to help children live healthier lives. These resources include useful methods of diagnosis and prevention, as well as treatments and therapies.

It is remarkable how effectively knowledge is shared within this network. What makes it all the more impressive is that NeuroDevNet's partners are extremely diverse, coming from government, industry, academia, not-for-profit organizations and other sectors.

You have heard me talk, many times, about the need for coordination and strong, widespread commitment if we are to meet the autism challenge. NeuroDevNet is an example of these very things. At the University of Victoria, young scientists and researchers are doing incredible imaging, working with students, and these programs have to be seen all across the country. I would recommend that you go on the University of Victoria's website to see what NeuroDevNet and other scientists are doing.

With representation across the country, this network of centres of excellence is progressing toward health benefits not only for children with neurodevelopmental disorders and their families but also for all of us.

As I did yesterday, I would like to invite you, honourable senators, to a reception I am hosting, from 5 p.m. to 7 p.m., in room 256-S Centre Block. NeuroDevNet representatives and others working in the field of neuroscience will be there. I am sure you would like to meet them. They will be there to discuss their initiatives with you. I hope you are able to come by.

MRS. FLORA THIBODEAU

FURTHER CONGRATULATIONS ON ONE HUNDRED AND ELEVENTH BIRTHDAY

Hon. Rose-May Poirier: Honourable senators, I would like to say that I appreciate the opportunity to continue speaking and making the comments on the life of Madame Flora Thibodeau that I began with yesterday.

• (1340)

We all know that raising seven children on your own is not an easy job. Madame Thibodeau was very successful as a mother and a career woman. Six of her seven children finished grade 12, while one of her children had health problems. Back then, they went to school until the end of grade 8 in Rogersville. From there, her children had to move and go to Tracadie to finish their grade 12.

I asked Madame Thibodeau what her secret was to having a long, healthy life, since after all, she is the oldest Canadian born, still living in Canada. She shared with me that she had no secrets. She has always eaten what she wanted and stayed active. She even went out last year on her one hundred and tenth birthday to eat at a local restaurant. She has been a very independent person all of her life, and she tells me that since her one hundredth birthday, the hardest thing she has to do is sometimes ask for help.

She loves company and over the past year she has had visits from many MLAs, MPs, senators, a few different premiers, media and many family members and friends.

In closing, I would like to take this opportunity to mention to you, honourable senators, that two of Madame Thibodeau's grandchildren — Madame Gisele Thibodeau and Madame Monique Thibodeau Laflamme — were in the gallery yesterday. I would like to share with you some of the thoughts they provided to me. I quote:

Celebrating any birthday is a wonderful milestone, but being able to celebrate your 111th is nothing short of an amazing miracle. Her sharp memory keeps alive stories of a time that are now only found in history books, but come magically alive when she vividly recites the first time a car came through her town, teaching children in a one-room

classroom over 90 years ago, eating her first banana in her late thirties. My favourite story is of the night my father was born at home, almost 80 years ago, snow falling and the bells from the horses' reins ringing outside her bedroom window, while their owners were celebrating Christmas midnight mass at the church beside the house.

Her abundance of knowledge, sharp wit, dry sense of humour and zest for life allows her to still be a contributing member of her community, with young and old alike. Even though the distance is great between us, she is held near and dear to our hearts. It is an honour to call her our grandmother and we cherish the time we've been given with her.

Honourable senators, I ask that you please join me in wishing Madame Thibodeau all the best on her one hundred and eleventh birthday, and I sincerely hope I have the opportunity again next year to share an update on her one hundred and twelfth birthday.

Hon. Senators: Hear, hear.

MS. JOELLA LYNN FOULDS, C.M.

Hon. Jane Cordy: Honourable senators, it is one thing to be born into a certain culture and a way of life; it is quite another thing to adopt the culture so entirely that to separate it from the person seems an impossibility. This is the case with the next woman I will discuss in my series on inspirational Cape Breton women.

Joella Foulds was not born in Cape Breton, not even in Nova Scotia. She has not only woven herself seamlessly into the fabric of Cape Breton's culture, she has become the greatest champion of it. Joella Foulds was born in British Columbia and was raised on a farm in Manitoba. Her mother was a teacher and her father a farmer. Her parents were highly involved in the community. From them she learned not to sit around and wait for things to happen but instead to do things herself to make change.

Ms. Foulds holds a Bachelor of Arts degree from the University of Manitoba and a Master of Social Work degree from Dalhousie University with a focus on community development, research and policy analysis.

Joella moved with her husband to Cape Breton in 1978. She worked for several years as a medical psychiatric social worker and as the executive director of the Planned Parenthood Association of Nova Scotia. She then worked for CBC for 15 years filling various roles, including broadcast journalist, morning radio host, writer, documentary producer and interviewer. Throughout her career, Joella has been a part-time musician, singer, songwriter and actor.

It is her passion for the arts that led her to become involved in this area. She stands by the idea that if you have something that you are good at, you have a responsibility to use that and to make the most of it. In 1994, she served as event coordinator for the East Coast Music Awards. A year later, she became president and co-owner of Rave Entertainment Inc.

During this time, she developed the concept for what would make her a household name in Cape Breton and in the international Celtic music community. That is the Celtic Colours International Festival. This festival actively promotes Celtic music and culture. It attracts 18,000 visitors to the region and generates a great deal of revenue for the surrounding businesses. Ms. Foulds has served as artistic director of the festival since 1997. Due to her vision, the festival has become known the world over as an exceptional showcase for the cultural and musical talent in Cape Breton.

Her involvement and contribution to the communities in Cape Breton extend far beyond her work with the Celtic Colours Festival. She has organized, produced and performed in fundraisers for Transition House, churches and local food banks, to name just a few. She has held positions with the Lieutenant Governor of Nova Scotia Arts Award Foundation, the East Coast Music Awards and the Music Industry Association of Nova Scotia. She is the recipient of numerous awards for her work with Celtic Colours and was awarded the ECMA Builder Award in the year 2000. She was inducted into the Cape Breton Business Hall of Fame in 2006 and the Cape Breton Tourism Hall of Fame in 2011. Last year, Joella received an honorary degree from Cape Breton University. Regarding this, she has said, "I think it speaks to the values that the university recognizes to the people who live here. I'm really honoured to be represented in those values."

Honourable senators, it is clear from her work that Joella Foulds does not believe at all in coasting but instead continually strives for change and development. Her philosophy on life incorporates the idea that as soon as you do not feel like you are making a difference, you should move in a different direction. Joella Foulds has made a difference, and we as Cape Bretoners are very lucky and delighted that, at least for now, she is exactly where she needs to be.

Honourable senators, I look forward to sharing with you more stories of inspirational Cape Breton women.

MASTER BOMBARDIER ADAM HOLMES

CANADIAN MEDAL OF MILITARY VALOUR RECIPIENT

Hon. Doug Finley: Honourable senators, imagine, if you will, the following: You are a young man in your mid-twenties with a young wife and son. You have been posted for the second time to Afghanistan. Your job, extraordinarily dangerous, is to identify the location of enemy combatants and mark these locations with smoke grenades. We are talking about up-close and personal. I am sure that Senator Dallaire would appreciate the courage and calmness that such a role requires.

A battle is engaged when the first day you are knocked out by the concussive back blasts of a rocket-propelled grenade. That is how close your mission is. You regain consciousness and return to your mission of identifying Taliban sniper locations. The next day, narrowly escaping enemy mortar rounds, you find a comrade laid low by heat exhaustion. After helping him to safety, you immediately return to your task of identifying enemy locations.

The battle rages on. Enemy mortar shells strike a trench full of Afghan soldiers and wound one of your comrades by a nearby truck. You crawl across the intervening space and drag your wounded comrade back under heavy fire to the trench and safety. While still identifying targets for the jets above, you further find a wounded Afghan soldier and carry him back to a safe area.

The battle rages into the second day. The next day, back in action, you find yet more wounded comrades and start pulling them to safety. Then an explosion. You lose consciousness, black out. When you awake, you find yourself wounded by shrapnel.

This may sound like a fantasy, or worse, a John Wayne movie script, but it is true. That soldier is Adam Holmes, a Master Bombardier with the 56th Field Artillery Regiment. This happened in 2010.

Master Bombardier Adam Holmes from Delhi, Ontario, close to where I live, was recently awarded the Canadian Medal of Military Valour, one of the highest honours that can be bestowed upon a member of the Canadian Armed Forces. He was recently further honoured by a tribute from his hometown. We folks in Norfolk County are particularly proud of this young man.

Winston Churchill once said:

Courage is the first of human qualities because it is the quality which guarantees all the others.

Adam Holmes is a perfect representation of that credo. Honourable senators, please join me in recognizing this remarkable young man.

Hon. Senators: Hear, hear.

• (1350)

CANADIAN BLOOD SERVICES

Hon. Vivienne Poy: Honourable senators, I rise today to speak about the Canadian Blood Services' new initiatives to make stem cells more readily available to Canadians who suffer from life-threatening diseases such as aplastic anemia, leukemia and other blood-related and immune disorders.

There are currently close to 1,000 Canadians on the waiting list for a blood stem cell transplant from all backgrounds. About 70 per cent of these patients will find a compatible stem cell donor outside of their families, and patients are most likely to find a donor in their own ethnic group.

At present, potential stem cell donors in Canada's national database are mostly Caucasian, despite the increasing diversity of the Canadian population, so there is an urgent need for a national strategy.

Over the past year, the Canadian Blood Services' OneMatch Stem Cell and Marrow Network began phase one of a campaign called "For All Canadians," to create a national public umbilical cord blood bank. A cord blood stem cell laboratory has been

established in Ottawa and a second lab will be constructed in Edmonton. Phase two will see new cord blood collection sites in Vancouver, Toronto and Edmonton, in addition to Ottawa.

In conjunction with all the provinces and territories, except Quebec, the For All Canadians project aims to collect 20,000 cord blood units, representing Canada's diverse population.

It is important to note the activities already taking place among Canada's ethnic minorities in support of the Canadian Blood Services' efforts. For example, the mayors of several cities have declared March to be Chinese Stem Cell Awareness Month. On March 31, 2012, with champion figure skater Patrick Chan as spokesperson, four major urban centres will be holding the 331 National Chinese Stem Cell Drive to encourage Chinese Canadians to join the Canadian Blood Services stem cell registry.

As honorary cochair of the For All Canadians Campaign, I would like to ask honourable senators to help raise awareness about the need for life-saving cord blood donations. Pregnant mothers from all ethnic backgrounds should be encouraged to donate their umbilical cords after the births of their babies in order to save the lives of many Canadians.

THE LATE NIK ZORICIC

Hon. Nancy Greene Raine: Honourable senators, I rise today to pay tribute to Nik Zoricic, who died in Grindelwald, Switzerland, last Saturday. I feel the tragedy personally as our son Willy is part of the coaching staff that has built Canada's ski cross team to be the best in the world. Nik was a big part of the team, and I know his upbeat presence will be missed by all those who knew him.

Nik's father, Bebe Zoricic, a well-respected ski coach in Ontario, was very thoughtful in his comments:

Nik loved what he did. Ski racing was his life and he enjoyed every moment of it. There are no regrets from anyone because he did what he loved to do. Nik's dream was to make the national team and he did that. His other dream was to make the Olympics. Like every athlete, he had his ups and downs but he was on his way up when this happened. He was really enjoying this year. He was really happy.

When tragedy strikes in a sports event, our sorrow is heightened knowing that the athlete has been taken in the prime of life. It is always sad to lose someone so young, and the loss for the Zoricic family is devastating. I know it will give some comfort to his father Bebe, his mother Sylvia and sister Katarina to see the outpouring of sympathy and the many stories of Nik's qualities, not only as an athlete but, more importantly, as a wonderful human being.

At a time like this, it is natural to seek someone or something to blame for the tragedy. I know that the International Ski Federation will be reviewing the accident and looking at ways to make the competition safer, but I also know that existing regulations include well-defined parameters for safety. No one thought the course in Grindelwald was unsafe, and it had been used many times before. There is simply no way to take all the danger out of ski racing. While the risks may seem unacceptable, I can tell honourable senators that the athletes have enormous

skills and are well-trained for the pressures of competition. While ski cross might look wild and aggressive, there are rules, and the racers know what is acceptable on the course. They are drawn to ski cross because they love to compete head to head, yet they have tremendous respect for each other.

When the accident happened, the race organizers did everything possible to assist the athletes and staff, even erecting a private tent for them in the finish area. The Canadian ski cross team, a tightly knit group, soon made their way back to their hotel where the owner asked what he could do to help. The coach said he wanted to take everyone up to the top of the Eiger to be closer to their fallen teammate and friend. About 15 minutes later it was done, and the hotel owner Patrick Bleuer took them up the mountain in a private rail car. They were on top of the Eiger, one of the most beautiful places in the world, when they got word that Nik had passed away.

The ski cross community is like a family, and the athletes showed how much they cared in a moving tribute the day after Nik's death. The Canadian team was especially touched by the compassion shown by the organizers, led by Christoph Egger and Paul Flück, and the kindness of the villagers, many of whom gave them cards to take back to the Zoricic family.

Skiing is a wonderful recreation sport. For those youngsters who are drawn to compete, there are many reasons to love it: the challenge of improving one's skills, the camaraderie, the pure beauty of the mountains and the exhilaration of being outdoors doing something one loves to do.

Nik's family understands all of this, but they will forever miss their only son. They have my utmost sympathy. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the Right Reverend Andrew Atagotaaluk, Anglican Bishop of the Arctic; the Reverend Ron McLean, Pastor of Holy Trinity Anglican Church, Yellowknife; and Debra Gill, Executive Officer, Anglican Diocese of the Arctic.

On behalf of all senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE PRESENTED

Hon. David Tkachuk, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

[Senator Raine]

Thursday, March 15, 2012

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

EIGHTH REPORT

Your Committee recommends that

- 1) The salary ranges for unrepresented employees of the Senate Administration be increased by 1.75 per cent effective October 1st, 2011, by 1.5 per cent effective October 1st, 2012 and by 2.0 per cent effective October 1st, 2013;
- 2) Senators' staff receive a 1.75 per cent increase to salary ranges, effective April 1st, 2011, a 1.5 per cent increase to salary ranges, effective April 1st, 2012 and a 2.0 per cent increase to salary ranges effective April 1st, 2013;
- 3) Severance pay for voluntary departures for unrepresented employees of the Senate Administration and Senators' staff cease to be accumulated effective March 31st, 2012; and
- 4) Options be provided to the unrepresented group of the Senate Administration and Senators' staff of immediately cashing out their accumulated severance pay in full or in part at their current substantive rate of pay or retaining it for payout on termination or retirement at their rate of pay at that time.

Respectfully submitted,

DAVID TKACHUK
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Tkachuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[Translation]

THE ESTIMATES, 2011-12

SUPPLEMENTARY ESTIMATES (C)—SEVENTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on National Finance on the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending March 31, 2012.

Honourable senators, with leave of the Senate and notwithstanding Rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

(On motion of Senator Day, report placed on the Orders of the Day for consideration later this day.)

• (1400)

[English]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Bob Runciman presented Bill S-209, An Act to amend the Criminal Code (prize fights).

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Runciman, bill placed on the Orders of the Day for second reading two days hence.)

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS OF THE SENATE

Hon. John D. Wallace: Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(a), I give notice that, later this day, I will move:

That, on Wednesday, March 28, 2012 and Thursday, March 29, 2012, for the purposes of its consideration of Bill C-19, An Act to amend the Criminal Code and the Firearms Act, the Standing Senate Committee on Legal and Constitutional Affairs have the power to sit, even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

QUESTION PERIOD

INDUSTRY

FOREIGN CORPORATE TAKEOVERS

Hon. Robert W. Peterson: Honourable senators, my question is to the Leader of the Government in the Senate.

As the leader is probably aware, Viterra, Canada's largest grain handling company, headquartered in Regina, has been presented with a takeover offer. She will also recall that about a year and a

half ago we had a similar takeover attempt of the Potash Corporation of Saskatchewan. As a result of that event, the Prime Minister told Parliament that the Investment Canada Act would be reviewed and clarified. Could she please provide her government's definition of a strategic asset?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, obviously, the stories we read in the media about Viterra are speculative. I am not in a position, as Leader of the Government in the Senate, to comment on speculation.

Senator Peterson: Honourable senators, could the leader provide her government's definition of a net benefit to Canada?

Senator LeBreton: Honourable senators, this is a question that I am not in a position to properly respond to. The honourable senator did mention Viterra in the preamble to his question. As I indicated, I will have no comment whatsoever on Viterra or any speculative story similar to it.

Senator Peterson: I am not asking the leader to provide comments on that. Has her government established new rules, as promised, to provide transparency to both buyers and sellers in a takeover offer?

Senator LeBreton: I am sorry, I did not hear the question. Will the senator repeat it, please?

Senator Peterson: The leader's government promised to establish new rules to provide transparency to both buyers and sellers in a takeover offer. Has this been done?

Senator LeBreton: Honourable senators, I will take the question as notice.

Senator Peterson: I hope it will be quicker than the last one. It has been a year and a half since she last promised.

Senator LeBreton: I will do my best.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

EMPLOYMENT INSURANCE— FAMILY CAREGIVER BENEFITS

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate. Taking care of a seriously ill child or a dying child puts a tremendous burden on family caregivers. Parents want to, and they must, be with their child at all times to offer comfort and consent for treatment. In addition to the emotional and physical demands, mothers and fathers worry about their jobs and finances, and the impact on their family.

During the last federal election, the Conservative Party promised to provide enhanced EI benefits to parents of gravely ill children. When does this government intend to follow through on its election promise?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, we were re-elected on May 2, 2011. We put before Canadians a very detailed policy platform of the intentions of the government going forward. We have not yet completed even the first year of our majority government. Obviously, when we put forward our platform, we put it forward for consideration over the duration of what we were hoping for, a majority government. I will be happy to ask for an update of where that particular policy stands.

Senator Callbeck: Thank you very much. I certainly would appreciate getting an update as to where that commitment made during the election now stands.

Parents are involved 24/7 in the care of their child. Many parents have to travel with their child for specialized treatment. Parents have enough to worry about without the fear of losing a job or paying their mortgage. Will this government make fulfilling the promise they made to parents in the last election a priority?

Senator LeBreton: Absolutely, Senator Callbeck.

I wish to remind honourable senators that the 2011 Budget, which we brought in after we were re-elected on May 2, did include a proposed new 15 per cent non-refundable tax credit for caregivers who have dependents with physical or mental infirmity. The estimate at the time was that this would help 500,000 caregivers. In any event, we have every intention of keeping the commitments we made to families and caregivers.

I might add that all of the initiatives we proposed in the budget, which did not pass because of the election being precipitated, and then again in the budget when we were re-elected, were rejected by both the NDP and the Liberal opposition in the other place.

[Translation]

OFFICIAL LANGUAGES

LINGUISTIC DUALITY— CORNWALL COMMUNITY HOSPITAL

Hon. Marie-P. Poulin: Honourable senators, my question is for the Leader of the Government in the Senate.

A few days ago, we learned that the Cornwall Community Hospital is at risk of losing a significant source of its funding. The reason: the hiring criterion that employees must speak English and French.

French-language minority communities are in great need of the federal government's unconditional support. Can the leader assure us that this support will be offered?

[English]

Hon. Marjory LeBreton (Leader of the Government): I was asked this question several weeks ago with regard to the hospital in Cornwall and I did make inquiries. This is a dispute between the municipality in which the hospital is located and the

provincial Government of Ontario, which is responsible for the delivery of health care. It is not a matter that calls for or requires the involvement of the federal government. I cannot comment on a matter that is strictly beyond the scope of the federal government.

• (1410)

[Translation]

Senator Poulin: I have a supplementary question. The minister is completely right about the constitutional responsibilities. However, when Senator Rivest asked her this question a few days ago, he reminded us that when such incidents occurred in the past, former prime ministers from all parties took a public stand the moment the bilingual nature of the country was called into question. This is not a partisan issue, honourable senators. However, when we — in 2012 — hear a phrase such as this one, “One country, one flag, one language,” we have to wonder what country we are in. Is it not the responsibility of the leader of the federal government to set the record straight?

[English]

Senator LeBreton: Honourable senators, I think the comments of Senator Poulin are a little over the top. Senator Rivest mentioned the intervention of the Right Honourable Brian Mulroney in the Manitoba languages issue, but that was as a direct result of an event in the House of Commons precipitated by the then Liberal government. Mr. Mulroney responded to something that was actually happening in the House of Commons and took a very correct and courageous stand on the whole issue of Manitoba languages. This matter is a dispute between the municipality and the Province of Ontario who are responsible for delivering health care.

From the federal government's perspective, no matter what party is in power, the federal government's well-known, long-standing commitment to linguistic duality in our official languages and the linguistic duality in the makeup of our country has not and will not change. I dare say, honourable senators, that if the federal government were to intervene in a dispute in any province that is strictly within the jurisdiction of that province — whether it be Ontario, one of the western provinces, Quebec or one of the Atlantic provinces — there would be howls of protests from all over the place. I think the honourable senator's question is out of order.

[Translation]

Senator Poulin: I want to thank the leader for the compliment in describing my comments as over the top. It is important for the 105 senators of this chamber to have the courage of their convictions in order to ensure that the principles that are so important to this country are confirmed by our government, which is well represented by the honourable members of the House of Commons and by the representatives of the regions in the Senate.

Franco-Ontarians know the history of the French language in Ontario and all the battles that have been fought for these very important principles. For example, next week, we will remember

the decision made by the Ontario government to close the only francophone teaching hospital in Ontario, the Montfort Hospital. The case went to court and the court's ruling allowed the Montfort Hospital to remain open, expand and grow.

Does the minister not believe that it is important that the government, regardless of the party in power and without intervening in a provincial or municipal dispute, at the right time and place and with a loud and clear voice, affirm its support for the country's two official languages?

[English]

Senator LeBreton: Honourable senators, When I talked about the comment being “over the top,” the intent of the comments, as I interpret them, was to suggest that we in this place would not support Canada's official languages and would not support minorities in the various aspects of country. That is what I felt was over the top. I took it as impugning of motives of people on this side who were not deserving of such comments.

With regard to the Montfort Hospital, it was the very same situation. It was a situation between the hospital, the municipality and the Province of Ontario. Many of us at the time, including me, did not agree with the decision of the then provincial government. Many of us were supportive of Gisèle Lalonde, who led the charge to retain the great services of Montfort. I dare say again, honourable senators, especially when it comes to the delivery of health care, that these are matters that are the responsibility of the provincial jurisdiction in which the facility is located.

Having said that, the actions of this government and the personal commitment of our Prime Minister absolutely underscore the importance the government, the Prime Minister and all of us place in recognizing Canada's two official languages and in respecting and recognizing the rights of minority languages in the various jurisdictions. That has not changed. Again, I will not, as Leader of the Government in the Senate, insert myself or the government in a dispute between a municipality and the province it is located in over a health care issue.

[Translation]

Senator Poulin: Honourable senators, I never intended to suggest that my colleagues in the government do not respect the country's bilingualism. I apologize if my comments were interpreted that way. That was not my intention whatsoever.

However, I want to come back to the need for public support from the leader of the federal government, who might use this opportunity to make a speech on the importance of bilingualism in Canada.

[English]

Senator LeBreton: I am glad the honourable senator clarified the intent of her remarks, and I accept her explanation. Again, I do not and will not insert myself and my government in a dispute

between a municipality in the Province of Ontario and the McGuinty government of the Province of Ontario.

HEALTH

DRUG SHORTAGES

Hon. Jane Cordy: Honourable senators, the Minister of Health continues to suggest that drug shortages are a provincial responsibility. The federal government has a responsibility to ensure sufficient regulation to prevent drug shortages in Canada, or at least to manage shortages. The Minister of Health has a duty to ensure the safety of food and drugs. The government and the Minister of Health have no long-term plan to deal with the shortage of drugs. They have no plan for mandatory reporting. They have no plan to deal with possible raw material shortages. They have no long-term plan to deal with the problem of drug companies no longer wanting to make generic drugs that are not profitable.

What is the Minister of Health's long-term plan to allow provinces and territories to effectively manage and plan for drug shortages?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I do not know if Senator Cordy ever watches these programs — and I do not know if Don Martin or Evan Solomon have great audiences — but I did see the minister yesterday on Don Martin's show and she was addressing this very issue. She was pointing out, as I pointed out here yesterday, that, since last summer, they have been working on various plans to deal with the potential problem of drug shortages. She also said in that interview that she acknowledges that it has not had the results that she would have wished. In response to the minister's calls, the drug company Sandoz has put in place a system to provide 90-day notices if they believe they are facing shortages.

• (1420)

Also this week, industry organizations Rx&D and the Canadian Generic Pharmaceutical Organization made a commitment to post information about current or anticipated shortages on a public website, and they will help fund the development of this website. These are all good steps forward.

In her questioning yesterday, Senator Cordy commented that the minister was unprepared to deal with this. We all have special powers, but I do not think any of us could have anticipated a fire at the Sandoz plant.

Senator Cordy: I did not say that she did not have the power. I said that she is not showing leadership.

Surgeries are being postponed because of drug shortages. Canadians are very concerned. I watched CTV last night. It is sort of pathetic to go home and watch a political show on TV after being here until after seven o'clock, but I did. I listened to the Minister of Health and to the Minister of Health from Alberta, who said that blaming the provinces is not constructive. I agree with him.

The provinces are looking to the federal Minister of Health to show leadership in this crisis. Will Minister Aglukkaq work with the provinces to develop a national strategy for anticipating and managing shortages, and will she bring in a mandatory reporting system for the drug companies? The voluntary system is obviously not working.

Senator LeBreton: Senator Cody said the minister is not showing leadership. I do not know how anyone could anticipate a major fire in a pharmaceutical plant. I do not know what kind of extraterrestrial powers the senator thinks we possess, but we do not possess such powers.

We were stating the simple fact that this shortage occurred because of the decisions to bulk buy from a sole source supplier. The government clearly does believe it has a responsibility and a role to play in assisting the provinces and territories by informing them of approved Canadian suppliers of drugs when their current supply has not been met. That is the responsibility of government. At the request of the provinces and territories we are fast tracking approvals for products and international products without compromising our safety standards.

All in all, the Minister of Health is working collaboratively with her provincial and territorial counterparts. It is obviously not a good situation that patients, hospitals and doctors face shortages. The minister is working very hard with her provincial and territorial counterparts to resolve these issues.

Senator Cordy: With all due respect, the drug shortage was red-flagged before the fire at Sandoz. Two years ago pharmacists in Canada did a study, and over 90 per cent of them spoke about drug shortages. Over a year ago, 76 per cent of doctors in Canada said that there were drug shortages. The fire certainly compounded the problem, but the shortage was known about long before that happened.

Steve Outhouse, a spokesperson for the Minister of Health, when speaking about getting information to patients, doctors and provincial governments, said:

We're really concerned about how Sandoz has handled this situation, and if a voluntary approach isn't what ultimately gets this information into the hands that need it, we are open to other solutions, including regulation.

Again, will the Minister of Health bring in mandatory reporting systems for the drug companies because the voluntary system is not working?

Senator LeBreton: Let us give the minister and her counterparts a chance to work on what they are already working on. One of the problems here, honourable senators, as the minister acknowledged last night in her interviews, is that there was not a lot of communication between the provinces, the territories and the suppliers.

Let us get the first step out of the way and ensure that a proper system of contacts is set up between the suppliers, the provinces and territories, and the federal government and that all the latest information on current or potential shortages is gathered in one place where the problem can be dealt with collectively.

[Senator Cordy]

I do not personally believe, although I stand to be corrected, that a mandatory system would be any better than the system that is now being put in place, under which the federal government will work with suppliers and the provinces and do a better job of communicating. The delivery of health care is, of course, still a provincial and territorial responsibility.

GOVERNOR GENERAL

DIAMOND JUBILEE MEDAL NOMINATIONS

Hon. Percy E. Downe: Honourable senators, can the Leader of the Government in the Senate advise whether the list of the allocation of the Queen's Jubilee medals that was published in the *Canada Gazette* was provided by the government to the Governor General?

Hon. Marjory LeBreton (Leader of the Government): I was asked this question yesterday, and I did make an inquiry. Deserving Canadians of all backgrounds are eligible to receive the honour of Her Majesty's Diamond Jubilee medal, and there is information on the Governor General's website. People can apply through information on the website or they can be awarded the medal through us as parliamentarians. We are all gathering names and submitting them to the Governor General.

This is a wonderful medal struck in honour of a wonderful occasion, the Queen's Diamond Jubilee, and it is to be hoped that deserving Canadians of all backgrounds will be well represented in the final distribution of the medals.

Senator Downe: I thank the minister for that interesting information. However, my question was whether the list of the allocation of medals that is published in the *Canada Gazette* was given by the government to the Governor General.

Senator LeBreton: I do not believe so. I am not aware that it was. Having said that, there are many medals to be awarded and we are all participating. I am sure that Senator Downe is.

All deserving Canadians have equal access to apply through information on the Governor General's website.

Senator Downe: I appreciate that answer as well. The list published in the *Canada Gazette* indicates that the public service will have 4,000 nominees, the Royal Canadian Mounted Police will have 2,300, and so on.

Would the names of the organizations and the numbers have gone from the government to the Governor General, or do they come directly from the Governor General? If the minister does not know, could she find out?

Senator LeBreton: I will take that question as notice.

Senator Downe: Will there be any screening, as there is for appointments and nominations to government boards and agencies and for senior appointments in the government, of the nominees for this medal?

Senator LeBreton: Why would any of us interfere with a process that can be done through the Governor General? It is absolutely ridiculous to suggest that they be screened.

Senator Downe: Does the leader think it is ridiculous that an overseas tax cheat would be awarded the Queen's Jubilee medal? None of us would want such people to receive the medal. Senator LeBreton knows full well that every nominee for an appointment in the Government of Canada is screened through the Privy Council by the RCMP and CSIS and that they must be in conformity with the Canadian Revenue Agency before being appointed.

• (1430)

Why would it be any different for these nominees?

Senator LeBreton: Obviously, honourable senators, these are not appointments. This is a medal to honour a special occasion, namely, the Queen's Diamond Jubilee. When each and every one of us submits the 30 names, or however many names we are allowed to suggest, we would surely not be submitting names of known felons from around the world. To suggest that, somehow or other, the government should set up a screening process for the awarding of a commemorative medal is bizarre to say the least.

Senator Downe: I want to thank the honourable leader for that answer. I totally disagree, however, that there is no way one can screen the 1,800 names, given to the Canada Revenue Agency four years ago by the governments of Germany and France, of Canadians who had overseas, hidden, secret accounts. If we knew who they were, we would not nominate them. I am sure no one in this chamber would nominate an overseas tax cheat. The government knows. Would the government check each name? After all, we are only nominating them, not selecting them.

Senator LeBreton: First, these medals are being given out by the Governor General. I do not know the process that they are following at Government House. I suppose I could make inquiries, although it is the responsibility of the Governor General and falls within the purview of his position representing Her Majesty. I know that they have a system in place for screening out duplication. Perhaps they have some system that I am not aware of. I would be happy to pass on your concerns to Government House.

Senator Downe: It is not only my concern. I assume it is a concern shared by the majority in this chamber, though obviously not the Leader of the Government in the Senate, that no one who is trying to defraud the Government of Canada out of taxes that are owed for the social programs and infrastructure of this country be awarded an honour in the sixtieth anniversary of Her Majesty's rule. I assume that would be done by the government automatically. However, the leader does not know where the list came from or who is responsible for it. I look forward to hearing from the leader with regard to that information.

Senator LeBreton: Honourable senators, this is being handled by the Governor General as the representative of Her Majesty. The honourable senator is asking me questions that I am not in a

position to answer because I am not part of the Governor General's staff. I answer for the government. I agree that I would not want to see a prestigious medal given to someone undeserving. On that, we are in total agreement.

Senator Downe: That is a change.

Senator LeBreton: It is not a change.

Senator Downe: It is a change from what you said earlier. Check the transcript. We all heard what you said.

Senator LeBreton: No, honourable senators. What I talked about was putting in place a process. The Governor General may have already done that. Hopefully, at the end of the day, these medals will be, as I said a few moments ago, handed out to deserving Canadians from all walks of life.

[Translation]

DELAYED ANSWER TO ORAL QUESTIONS

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table the answer to the oral questions asked by the Honourable Senator Moore, on February 14 and 15, 2012, concerning cyber-security.

NATIONAL DEFENCE

F-35 AIRCRAFT PURCHASE— SECURITY OF F-35 AIRCRAFT TECHNOLOGY

(Response to questions raised by Hon. Wilfred P. Moore on February 14 and 15, 2012)

As outlined in the Canada First Defence Strategy in 2008, the Royal Canadian Air Force requires a next generation fighter to carry out its core missions of defending Canadian sovereign airspace through NORAD and providing this country with an effective and modern capability for international operations. The F-35 Joint Strike Fighter is the only fighter aircraft available to Canada that meets all of the Canadian Forces' mandatory operational requirements. This multi-role stealth fighter will help the Canadian Forces defend the sovereignty of Canadian airspace, remain a strong and reliable partner in the defence of North America, and provide Canada with an effective and modern capability for international operations.

As a partner nation, Canada carefully safeguards all sensitive information related to the Joint Strike Fighter Program, and we are confident that our multinational and industry partners likewise take all appropriate measures to protect sensitive program information. Canada continues to work closely with its multinational partners to develop this new state-of-the-art aircraft and continues to monitor all aspects of the development program.

ORDERS OF THE DAY

PROTECTING AIR SERVICE BILL

THIRD READING

Hon. Claude Carignan (Deputy Leader of the Government) moved third reading of Bill C-33, An Act to Provide for the Continuation and Resumption of Air Service Operations.

He said: Honourable senators, I would like to thank all honourable senators who participated in the Committee of the Whole yesterday. Some of the questions they raised shed light on labour relations issues at Air Canada that arise from disagreements between the employer and two of its bargaining units: pilots and baggage-handlers.

In both cases, negotiations have been going on for almost a year. Both collective agreements expired on March 31, 2011. The parties reached tentative agreements in principle, which the members rejected.

The Honourable Lisa Raitt, Minister of Labour, made it clear that she and her department did as much as they could to facilitate an agreement and bring the parties together through mediation and conciliation processes. Senior mediators and conciliators were appointed, including former Court of Appeal judge, Louise Otis. She had to inform the minister that she had done as much as she could in her role as mediator to bring the parties together.

We also became aware that Air Canada plays a key role in transportation in Canada. Air Canada serves 59 small, medium and large municipalities in Canada, some 60 service points in the United States, and another 60 or so in big cities around the world.

Air Canada plays a major role in the transportation of passengers and cargo. We heard that the economic impact of a week-long work stoppage would cost \$22.5 million and would affect 26,000 employees who have families to support and who need their paycheques. It would also affect 260,000 jobs directly related to Air Canada's operations.

The positions of both parties were clear and firm. This demonstrated to us that a short-term agreement was unlikely to be reached without the intervention of an arbitrator. The lockout notice from the employer and the strike notice from the union clearly demonstrated that the parties were prepared to interrupt service in order to try to reach an agreement. And when service is interrupted at a company that is as crucial to the Canadian economy as Air Canada, this is harmful to our economy and harmful to the 32 million passengers who use it every year. And during this particularly critical time of school breaks, this would be very harmful to over one million passengers a week.

Honourable senators, everything before us justifies responsible action on the part of the government to protect the economy, as it promised to do. It is patently clear that this special legislation is needed, as it will ensure that an independent arbitrator is appointed who will be able to choose the two best offers from those submitted by each of the parties.

This is not the kind of legislation we pass with joy in our hearts, but as lawyers say, the worst settlement is sometimes better than the best judgement. In the present case, we have no choice but to pass this legislation in order to protect the economy. I therefore urge all honourable senators to vote in favour of Bill C-33.

• (1440)

[English]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, the Harper government likes to talk about hard-working Canadians, but when push comes to shove, it really has no interest in defending their rights.

We are here debating so-called back-to-work legislation for Canadians who are working, have been working and never stopped working. There is no strike in progress; there is no lockout; there has been absolutely no work stoppage at all, no disruption of air travel — nothing. This is not back-to-work legislation; it is “Don’t you even dare think about stopping work” legislation.

Some Hon. Senators: Hear, hear!

Senator Cowan: Honourable senators, we have a Constitution in this country. Our Constitution includes the Charter of Rights and Freedoms, which guarantees that all Canadians have freedom of association. The Supreme Court of Canada has held that this includes the right to collective bargaining, yet it is now abundantly clear that the Harper government does not like collective bargaining. Prime Minister Harper makes the rules, and he is not going to be stopped, not even by a constitutional right.

Of course, Air Canada is a private company. There is no monopoly these days on air travel. Air Canada has a number of active competitors and it faces competition from other travel providers. Yet this government, which professes to be a Conservative government, supposedly committed to the primacy of market forces and against government interference in the private sector, suddenly appears eager to intervene. It jumps in, invoking closure at every turn in the other place, with pre-emptive and back-to-work legislation for people who have never stopped working.

I want to take a moment to set out how we got here.

Despite the fact that this government has seen fit to intervene in four out of five labour negotiations at Air Canada since June of 2011, less than a year ago, in fact there have been very few strikes or lockouts at Air Canada. The last time the pilots went on strike was in 1998, almost 15 years ago.

A Liberal government was in power then. There was no government intervention, no back-to-work legislation. The parties worked it out. Was it difficult? Of course it was; but the economy, under Liberal stewardship, was strong. The Chrétien-Martin team had finally slain the deficit inherited from Prime Minister Mulroney.

An Hon. Senator: And Trudeau.

Senator Cowan: The Chrétien government had already created over 1 million jobs since taking office in 1993, and the economy under Liberal leadership went on to do very well indeed.

The Toronto Star, through access to information legislation, recently obtained assessments prepared for Labour Minister Raitt by her own officials. They note that during the 1998 work stoppage by Air Canada pilots, the company made arrangements with 15 airlines and VIA Rail to ensure that the travel plans of its 60,000 daily customers were, in the words of the officials, “unaffected.”

Evidently, Liberal governments are much better than the Harper one at managing labour disputes and the economy simultaneously. It is clear from Minister Raitt that her government cannot see its way to deal with both matters at once.

As we are all aware, there are two separate disputes here, which this government has decided to bundle together in yet another omnibus bill. One deals with the pilots, represented by the Air Canada Pilots Association; and the other deals with the baggage handlers, mechanics and cargo agents, represented by the International Association of Machinists and Aerospace Workers, the IAM.

Let me deal first with the IAM employees. They have been operating under essentially the same collective agreement since 2003, almost 10 years. We all remember the terrible events of 9/11, which had a significant effect on Air Canada. Air Canada actually became insolvent by the spring of 2003. In 2003, given this situation, the IAM agreed to a number of significant concessions, including wage and non-wage scale changes.

This collective agreement was extended to July 1, 2006. In 2006, they agreed to extend it again, to July 1, 2009, with certain exceptions relating to wages, which were resolved with the help of an arbitrator. The arbitrator concluded that Air Canada was still not profitable and awarded across-the-board wage increases slightly below the normative range.

The collective agreement expiring July 1, 2009, was then extended without substantial changes for a further 21 months. A conciliation commissioner was then appointed on December 21, 2011. A tentative collective agreement was reached by the negotiators during this process. However, when it was presented to the 8,500 members for a vote, it was rejected by a vote 65.6 per cent.

That was their right, honourable senators; that is how the process works. That is a very strong majority. The Harper government likes to describe itself as having a strong mandate from the Canadian electorate because it received 40 per cent of the vote in May. I find it passing strange — and perhaps some might say hypocritical — for these same people to turn around and dismiss a 65.6 per cent vote.

Let us talk about the pilots. They, too, say that they have been unable to freely negotiate a collective agreement for more than a decade.

In the 2003-04 financial restructuring of Air Canada, the pilots accepted pay cuts of between 15 and 30 per cent, and agreed to other concessions to help keep the airline flying.

In 2009, the pilots accepted a wage and benefits freeze for two years. They also agreed to significant concessions — hundreds of millions of dollars — to relieve the company's pension funding obligations.

That collective agreement was set to expire in March of 2011. Recognizing this, Air Canada and the Air Canada Pilots Association began negotiations in October 2010. A tentative agreement was reached in May of 2011 but rejected by 67 per cent of the membership. Again, honourable senators, that is their right. It is one of the basic tenets of labour law that union members have the right to ratify or reject collective agreements negotiated by their leadership. If they have no right to reject, then they are facing a “take it or leave it” situation, which is emphatically not negotiation.

It took a while for negotiations to get going again, during which the pilots continued to fly. A federal conciliation officer was brought in to help, and that process went on for two months. Again, throughout, the planes flew. There was no disruption in air travel.

In early February, negotiations became difficult. The company rejected the pilots' offer to delay any strike or lockout until April. Faced with this, the pilots held a vote, and 97 per cent gave a mandate to the association to negotiate and strike if necessary. The association was clear: No one wanted to strike; the vote was a defensive measure only. Negotiations would continue with the assistance of a new federal mediator appointed by Minister Raitt.

Shortly thereafter, Minister Raitt appointed new mediators, and the parties entered into what was supposed to be a six-month mediation process. However, 23 days into the process, on the first day of that round of contract talks, Air Canada chose instead to table what it termed its “final” offer.

That was March 7, honourable senators. The next day — last Thursday, March 8 — Air Canada threatened to lock the pilots out at midnight on March 11. The company threatened to lock out its pilots and bring operations to a halt right before one of its busiest and most profitable periods of the year, March break week. The very same day that Air Canada made that announcement, the Minister of Labour jumped in and referred the dispute — along with the one with the machinists and aerospace workers — to the Canada Industrial Relations Board. The next day, the government announced that it would table “back-to-work” legislation, for workers who had never stopped working, and that is the bill we have before us today.

This is new for Air Canada. As I said at the beginning of these remarks, in fact there have been very few work stoppages at the airline. The last pilot strike, I remind honourable senators, was some 15 years ago. The Liberal government of the day, in its wisdom, allowed the strike to run its course, and the result was a 15-year stretch without a strike or lockout.

However, last June, not even a year ago, the Harper government let it be known what its new approach to labour disputes would be when it legislated postal workers back to work. Parliament ordered them back to work on terms worse than those

which management had previously offered. The government also introduced back-to-work legislation not even 24 hours after the customer service and sales staff at Air Canada had walked out.

• (1450)

The flight attendants were up next, and the Harper government left absolutely no doubt in anyone's mind that the back-to-work legislation would be forthcoming if they exercised their democratic rights.

Honourable senators, this is not collective bargaining; this is collective bullying.

Some Hon. Senators: Hear, hear.

Senator Cowan: The minister told us yesterday her primary concern was the damage that a work stoppage would cause to Canada's economy. However, as soon as she referred the disputes to the Canada Industrial Relations Board, the risk of a strike or lockout was gone. The pilots told us very clearly yesterday they were not on strike had not given any notice that they would strike. In fact, they made numerous statements, publicly, privately and to the government prior to the Christmas break and again prior to the spring break period, that they would not strike during these high-traffic times, and they did not.

As soon as the government referred both disputes to the Canada Industrial Relations Board, which they did last Thursday, this prohibited all parties from any strike or lockout during the period of adjudication by the board.

Honourable senators, there was no risk of a strike or a lockout. That was taken off the table by the minister's action. There was no risk of damage to the economy, so concern for the economy cannot have been the real reason for this bill.

We have two groups of workers — over 11,000 in total — who have been waiting for more than 10 years to sit down and negotiate a full collective agreement with Air Canada. As Captain Paul Strachan of the Air Canada Pilots Association told us yesterday:

Our men and women have waited a decade to be able to address both the sacrifices that they made in the restructuring of the airline in 2003 and 2004 and also many of the issues, of course, that have arisen within the collective agreement in addressing the operations of the airline over that period of time.

However, emboldened by this government's evident willingness — indeed eagerness — to wipe out any real collective bargaining, Air Canada has apparently felt free not to engage in real negotiations but instead, with five months left for mediation, threatened a lockout. It knew then that the Minister of Labour would protect its back and not the backs of workers who wanted to engage in meaningful negotiations.

Dave Ritchie of the IAM told us yesterday that their last offer on the table would have resulted in \$25 million of additional costs to Air Canada.

We also heard from Kevin Howlett of Air Canada that to shut down the airline for one day would cost them \$33 million. In other words, the difference between the two sides was less than the cost to Air Canada of one day's strike. As Mr. Ritchie said, he cannot believe in his heart of hearts that an agreement could not have been reached had the minister not intervened, but the minister did intervene and put an end to negotiations.

The magazine *Canadian Lawyer* ran a cover story in its January 2012 issue entitled "The Death of Collective Bargaining?" It began by discussing "Harper's apparent war with the labour movement in Canada." It said:

This new policy of stepping into disputes is setting the stage for a new style of labour negotiations, experts say, where companies hold back and wait for government help. If the government's propensity to involve itself in labour disputes continues, says Cavalluzzo, employers will feel safe under the umbrella of back-to-work legislation and will no longer be serious about negotiating.

Honourable senators, this would appear to be exactly what has happened here.

Julie Guard, an associate professor of labour studies at the University of Manitoba, has said that the Air Canada and Canada Post negotiations last June suggest that the Harper government has a secret policy of undermining collective bargaining and weakening the labour movement. This is what she said:

The Conservatives did not mention collective bargaining or an intention to undermine unions when it campaigned in the last election and has not acknowledged that goal now. But it appears that is nonetheless its agenda.

Minister Raitt has cited the fact that back-to-work legislation is not unique to the Harper government. It has been used more than 30 times since 1950. That is true. Back-to-work legislation, per se, is not that unusual. What is unusual is when and where this government has been employing it.

According to Eric Tucker, professor of law at York University's Osgoode Hall Law School in Toronto:

Historically, back-to-work legislation was usually only enacted after a strike had gone on for at least some period of time and there was some evidence that the public interest was being seriously affected in a negative way.

Honourable senators, there is no strike or lockout here. Not only has it not been going on for some period of time, it has not been going on at all. There is no evidence that the public interest has been seriously affected in a negative way because nothing has happened: the planes are flying and the baggage is being taken care of. There is no work disruption.

Laurel Sefton MacDowell, a labour historian at the University of Toronto, said that back-to-work legislation has mostly been used for strikes in the public sector: teachers, nurses, garbage

workers. Air Canada, by contrast, is, as I have said, a private sector company. Professor Tucker was asked about this last fall. He said:

Air Canada has never been treated as an essential service. I don't know that there would be evidence to say that if there was an Air Canada strike that the lives and health of Canadian citizens would be put at risk. I think that's an extraordinary claim.

In fact, Minister Raitt's own officials have concluded that, in the event of a strike or lockout by Air Canada, passengers would have other options. I mentioned an assessment that they had prepared. This is an internal assessment in her department. It said:

An Air Canada work stoppage would induce some passengers and firms to cancel their travel arrangements altogether, while others would opt for alternative airline companies or choose to travel by train.

That makes sense, honourable senators. There are alternatives to air travel in Canada. Even if one wishes to travel by air, Air Canada does not have a monopoly. Indeed, WestJet announced last Thursday that it planned to add extra flights to accommodate passengers who might otherwise be stranded in the event of a work stoppage by Air Canada.

Honourable senators, there is no immediate need for this legislation. There is no work stoppage that needs to be addressed, and Air Canada is not an essential service.

Canadians have options. Minister Raitt's own officials acknowledge this.

Honourable senators, what is this bill really about? Some believe it is about union-busting. I am certainly not in a position to tell you what is in Minister Raitt's or Prime Minister Harper's mind.

Senator Mockler: Caring for people.

Senator Cowan: Terrible as union-busting would be, the effect of this legislation, I believe, would be even more far reaching and harmful than that.

The *Montreal Gazette* interviewed George Smith about this bill. Professor Smith teaches industrial relations at Queen's University, and he used to be Director of Employee Relations at Air Canada. He said that Minister Raitt is taking labour relations in this country "through the looking glass." He said the pattern Minister Raitt has established sets a bad precedent for other federally regulated sectors, such as telecommunications, the ports and railways, in their future negotiations.

He added something that I found particularly insightful. While most of the focus has been on whether the measures the minister has taken are anti-union, he said they are also anti-management because they threaten to saddle the corporation with a labour agreement that is uncompetitive through binding arbitration. He said:

No management in its right mind would voluntarily agree to binding arbitration. It is such short-term thinking. There is no public policy or economic consideration where this will take us six months from now, or a year from now.

This approach, honourable senators, is bad for unions and it is not good for management either. Once again, honourable senators, I feel we are in the realm of ideology rather than clear thinking based on real evidence.

Once again, we are witnessing the thoughtless, short-term politics of division and anger, pitting one group against another, labour against management, Canadian against Canadian.

• (1500)

The vice-president of the International Association of the Machinists and Aerospace Workers said that in his 40 years of collective bargaining he has never seen the level of anger that he now sees in his membership at Air Canada.

That should not surprise us, colleagues. When you know there is no point engaging in serious negotiations because the other side has a trump card it will play, back-to-work legislation that the government is happy, indeed eager, to bring in, when you know your concerns and issues can be blithely ignored, how does that help to bring a good, stable working environment?

This government has frequently lectured Canadian businesses about their poor records on productivity and innovation, yet it sows by actions such as this a poisonous atmosphere amongst the very workers whose productivity and innovation it says it wants to improve, and then it wonders why its policies are not succeeding.

According to ACPA, Air Canada pilots earn less today than a decade ago. However, Canadians have noticed that the same cannot be said for Air Canada executives. Last year, Air Canada's top five executives each received 30 per cent pay increases. Air Canada President and Chief Executive Officer Calin Rovinescu earned \$4.55 million in 2010, a \$2-million increase from 2009. On March 31, less than two weeks from now, he will receive a \$5-million retention bonus. That is \$5 million just for having stayed in his position for three years.

Senator Munson: That is better than the Senate.

Senator Cowan: As I described, the pilots took a 15 to 30 per cent cut in 2003-04, agreed to a wage freeze in 2009 and today earn less than they did 10 years ago. The baggage handlers, mechanics and cargo handlers also agreed to cost savings in the hundreds of millions of dollars.

This is a volatile situation, honourable senators, reflected in the large numbers that voted on the various proposed deals. There is need for the government here, a need for the government as a calm, neutral third party to work with both sides to bring them together and find a compromise that can be accepted by everyone. However, honourable senators, back-to-work legislation is not the answer. No one is fooled. This will not calm labour relations in this country. I fear it will foster greater resentment and unrest.

We know there will be legal challenges to this legislation as indeed there already have been with respect to the postal workers legislation passed by the Conservative majority in June. The Canadian Union of Postal Workers filed an action in the Ontario

Superior Court of Justice alleging that Bill C-6, which we passed in June, is unconstitutional. We heard yesterday from the pilots' association that they consider Bill C-33 to be similarly unconstitutional and have asked their legal advisors to challenge it accordingly.

Indeed, the Supreme Court of Canada has held that the right to collective bargaining is a fundamental right protected under the freedom of association in the Charter. The landmark case was the 2007 decision in *Health Services and Support — Facilities Subsector Bargaining Assn v. British Columbia*. The court went through a detailed analysis of the history of labour relations and collective bargaining noting the important role that collective bargaining plays precisely in avoiding and resolving labour disputes. The court concluded:

Recognizing that workers have the right to bargain collectively as part of their freedom to associate reaffirms the values of dignity, personal autonomy, equality and democracy that are inherent in the *Charter*.

Honourable senators, these are not values to be taken lightly. This is not a right to be revoked on a dime, yet I fear this is not far from the situation here.

One day the minister was referring these disputes to the Canada Industrial Relations Board, the next day suddenly there was the announcement that back-to-work legislation would be introduced and indeed passed. Why? I can only assume it is because Parliament has a break week next week. I and I think all of my colleagues on this side of the house would have been happy to have returned to consider this bill if our Speaker had recalled the Senate. That is what happened in June. We were recalled on a Sunday and we sat for many hours in Committee of the Whole to debate. Honourable senators, that is our job.

However, it is not only the process I find objectionable; the bill that the government has crafted and introduced is itself problematic. Bill C-33 would grant broad discretion to the minister to choose the arbitrator. The bill says in clauses 11 and 26 — and remember we are dealing with two labour disputes here:

The Minister must appoint as arbitrator for final offer selection a person that the Minister considers appropriate.

"That the Minister considers appropriate," honourable senators. I cannot imagine any power broader than that. There is no requirement even to consult with the parties, let alone obtain their agreement to the party chosen.

An Hon. Senator: How fair is that?

Senator Cowan: This language was used in the postal workers legislation we dealt with last June. The Canadian Union of Postal Workers challenged that legislation in the Ontario Superior Court and also specifically challenged the choice of the arbitrator in the Federal Court. The minister, evidently, had appointed someone who is not bilingual and who did not have a degree of recognized expertise in labour relations.

By the way, that act, like Bill C-33, purported to oust the jurisdiction of the courts. Take a look at clauses 15 and 30. The clauses even try to specifically prohibit orders and proceedings "to question the appointment of the arbitrator." I am happy to tell honourable senators that even the government could not stand up in court and argue that this means what it says. I am speaking now about the discussion about the postal workers legislation, but as I have said, it is precisely the same wording in this legislation. The government agreed that the clause "must be construed narrowly" to protect the court's constitutional role in reviewing the legality of actions taken by governments and administrative tribunals.

The Federal Court looked at the broad ministerial discretion to choose the arbitrator. The government argued they "would like the exercise of ministerial power, which it considers discretionary, to be unobstructed, unguided or not subject to any criteria of qualification or competence for the arbitrator." This is the government's argument. I'll repeat that.

The government argued that they "would like the exercise of ministerial power, which it considers discretionary, to be unobstructed, unguided or not subject to any criteria of qualification or competence for the arbitrator."

This is breathtaking, honourable senators. The Harper government believes that it should be allowed to appoint anyone to arbitrate these proceedings. It believes that it should be free to choose someone who is not competent, in other words someone who is incompetent. The Federal Court, I am relieved to tell you, rejected this argument, not surprisingly. It said, and I quote:

This is not what is indicated by common sense, case law, the economy of the Act or the specific labour relations context that govern the parties to the collective agreement. However discretionary a ministerial appointment may be, there is no such thing as absolute discretion.

That is the Federal Court in the postal workers' dispute.

Honourable senators, despite that, the government is using precisely the same words not once but twice in the legislation we have before us, the exact same wording. We can only hope that the minister does not once again interpret it as allowing her to appoint an unqualified, incompetent arbitrator so long as she believes the appointment is appropriate. Seeing exactly the same words in this legislation and the previous legislation, you can appreciate my concern.

What is this arbitrator to do? Not arbitrate, not mediate, not work with the parties to come to a mutually satisfactory resolution but rather to receive final offers from each party and then choose one or the other. There is no choosing particular terms that seem more reasonable from one or the other to actually come up with a reasonable collective agreement. It is sudden death, labour relations as Russian roulette.

• (1510)

Let us be clear: These are not simple documents. The pilots told us yesterday that their collective agreement is a very complex document that is 346 pages long. It covers every aspect of their

relationship with their employer and is the result, as Captain Strachan told us, of 60 years of constructive and cooperative collective bargaining as contemplated under the laws of Canada. Instead, an arbitrator, picked at the sole discretion of the minister, is given 90 days to select either one or the other final offer on the many issues in dispute between the parties.

Honourable senators, that makes no sense. This is no way to establish a complex agreement that will govern these parties' relationship with one another for years to come.

Of course, once again, this government cannot refrain from imposing terms. Last time, honourable senators will recall that it actually legislated terms that were worse than what the employer had previously offered to the workers. This time, the minister has directed the arbitrator, in the case of the baggage handlers, mechanics and cargo agents, to take into account — those are the words in the bill — the terms of the tentative agreement dated February 10, 2012.

Honourable senators, these are the terms that were rejected by over 65 per cent of the members. In other words, with this legislation, the Parliament of Canada is telling them that their vote was meaningless, irrelevant. This is collective bargaining, Harper-style. A government elected by less than 40 per cent of Canadians wants to impose terms on a group of workers who said “no” to those very terms by a vote of over 65 per cent, all the while trampling on their constitutional right to collective bargaining. This supposed back-to-work legislation is being imposed where there is no strike, no lockout, the planes are flying and the baggage is being handled. What is the looming emergency?

Senator Mitchell: What would happen if there was an emergency?

Senator Cowan: The only looming emergency is the March break, and the real issue is not even the possible inconvenience to Canadian families, but rather to themselves. The Conservatives simply do not want to be called back from their vacations next week to deal with the work stoppage, should one actually occur.

Some Hon. Senators: Hear, hear.

Senator Cowan: Honourable senators, there is evidently no limit to this government's arrogance. Hard-working Canadians at Air Canada and across the land deserve better.

Hon. Doug Finley: Honourable senators, if you will excuse me for a second while I remove my horns and tail, today I rise with very mixed feelings to speak to Bill C-33. I will try not to be quite as scholarly as the previous speaker.

I have already recounted to the house the story of my grandfather, a miner, who walked from Glasgow to London as part of the miners' strike in 1927; and of my mother's ultra-socialist leanings born of listening to the oratory of Keir Hardie, Jennie Lee and Aneurin Bevan in the hills of Scotland, an area long acknowledged as the cradle of the trade union movement. So I know a wee bit about the history of the trade union organization.

In the early 1950s, my father, an engineer — and an avowed Tory, by the way — was an unwilling victim of a strike initiated by a union over a relatively trivial matter. I cannot remember the strike's duration, but I know it lasted for many weeks. My father, a non-unionized employee, had to pick rhubarb for a living. It was a miserable period, with considerable and long-lasting family difficulties.

What I remember most was a newspaper cutting about a guy called “Bonus Joe,” who was apparently at the heart of the strike. My socialist mother actually detested Bonus Joe, not for the deprivations, but for the abject selfishness of the cause. So I know a wee bit about the difficulties encountered by families during a strike.

I spent a good part of my working life in the aviation business, with a variety of companies, both large and small. This is a capital-intensive business, relying on huge investments in research and development, innovative technologies, expensive processes and equipment for future success and growth. It is also a business requiring extreme levels of quality, safety and service. Primarily, it is a business that relies heavily on highly trained and dedicated work personnel. They deserve to be well compensated and, as we heard yesterday, they certainly are.

I have worked at all levels in aviation and in many aspects, including production, development, IT, planning, marketing, sales and in the highest executive positions. So I know a wee bit about the aviation business, its beauty, its excitement, its skills, its dedication, but most of all, its fragility.

When I first started working at Rolls-Royce in a junior position, I was concerned with some of the working conditions — after all, I was a child of the 1960s — particularly what I perceived to be a rather arbitrary and callous nature of management. The shop floor workers were already members of a union and treated somewhat better.

After some notable misadventures and not a little chicanery, I succeeded in forming a staff-based union, which became affiliated with the International Association of Machinists and Aerospace Workers, the IAMAW. I am sure honourable senators will recognize this name from our current debate.

I remember being particularly pleased that the lodge number we were assigned was both easy to remember and to say: Lodge 2468. I was at various times President and Treasurer of this union, but most critically, I was a lead negotiator on the first two collective agreements involving Lodge 2468.

I should mention in passing, both Rolls-Royce and Rolls-Royce Canada are today icons in both their business and labour relations. So I know a wee bit about union business and the negotiation aspects.

Later in life, I sat on the management side of negotiations with labour unions. One set of negotiations, in which I was involved only peripherally, ended in a union-called strike. It lasted for

six weeks. It was both miserable and eye-opening watching friends and colleagues sell boats, cottages and other possessions to help them survive the strike.

After six weeks, the union and management finally agreed to another one-half per cent on a wage structure. As a striker, each individual lost six weeks of that year's wages — 12 per cent. This to gain half a per cent annually? It would take over 20 years at that rate to show a return. What a waste. So I know a wee bit about the devastating effect of a strike on co-workers and friends.

Later in life, I ran an aviation company that had no unions. This was in a highly unionized industry in a highly unionized city. In retrospect, one of my greatest feelings of accomplishment was being able to help turn that company around and watch it grow to be the largest of its kind in the world — without ever having a union. So I know a wee bit about running non-unionized companies.

I have also run companies whose business was that of a supplier or a subcontractor to larger companies such as Air Canada. In fact, at several points in my life, I have been both a large and small supplier to Air Canada. I have felt the subcontractor pain of larger companies going on strike or worse, into sudden bankruptcy.

• (1520)

The ripple effect is incredible. Laying off employees is an exercise in angst that no one should experience, especially when you are helpless to influence the cards. Calling valued and loyal suppliers to your firm to advise them they will have to cut their supply chain immediately is truly one of life's less pleasant experiences. I know a bit about that as well.

Like most of my colleagues, I have also been an investor and/or owner in business ventures. No one invests their hard-earned money, be they individuals, pension funds or equity banks, for the sake of their immortal soul and a place in heaven. We invest for profit, a return on our risk. It is either nirvana or hell, but for most of us, just purgatory. I know a bit about investing money — my money, the risk. An investor is just as much a stakeholder as any manager, employee or union member.

I have also been a stakeholder in Air Canada inasmuch as I am a frequent customer of that airline, as many of my colleagues here are. Yes, customers are stakeholders too, perhaps the most important. Those managers, investors and union members owe as much to this particular customer stakeholder as anyone.

I say all this as a prelude to what follows. This should not be a partisan issue. The issues before us should cut across party and ideological grounds. I am not speaking as a Conservative senator — just a senator. I am conflicted by this state that Air Canada and its unions find themselves in. I understand the history of the union movement, what drives and motivates it. Equally, I understand where Air Canada is and what it inherited from its time as a Crown corporation. I particularly understand its operating economics and the very fragile nature of the business at which it operates.

Part of my initial considerations included puzzlement over the union's methods and negotiating techniques. I was taught early by skilled union negotiators from the IAMAW to look always at the big picture and always — always — hold a nickel up your sleeve. I was driven by the goal to get the best possible deal for the members without resorting to costly strikes and by a clear mandate that part of the process was to sell an agreed deal to one's membership. It is a critical point.

Despite agreeing to a deal at the table, there has been no agreement from the membership. In fact, the negotiating team appears to be laying the blame entirely on its membership. Perhaps they have no nickels up their sleeves, or perhaps the salesmanship mandate has changed. I do not know and certainly offer no criticism of the union negotiation effort. On the other hand, I could look at Air Canada's style and possibly express concerns on that, particularly in the area of bonuses.

However, expanding on these thoughts would not help this debate. Our job here is not to find or assign blame. We in the Senate are not labour negotiators, arbitrators or conciliators. We have been asked to do a simple thing. In essence, in my view, we have been asked to determine what is for the greater good under the present circumstances at this point in time.

Air Canada is not considered an essential service for the very good reasons highlighted by Minister Raitt yesterday. However, at this point in time, it operates very much or largely so because of prevailing market conditions in their industry, the state of the global economy and, in particular, Canada's still fragile recovery and the fact that this unresolved dispute sits on our desks at precisely one of the most customer-critical periods in the year.

I will repeat what I said earlier: All stakeholders have to be accommodated. No win, no loss. My very first union mentor told me the outcome of any successful negotiations should be that neither side should feel that they have either won or lost. If the outcome is that one side claims victory or defeat, then it was not a successful negotiation.

I do not see or hear evidence that either side right now senses either victory or defeat. Concessions have obviously been made on all sides. As senators, we must be aware of that fact. A fair and reasonable attempt has been made by both sides to reach accommodation here. In fact, deals have already been agreed at the negotiating table.

Labour negotiations are like a dance: They can be fast and furious or slow and deliberate. No matter which, they are never done solo. It takes two to tango.

Let us assume that both sides have reached this impasse together. Call it a tie.

Let us look at some of the peripheral concerns.

Senator Poy talked about the returns to shareholders yesterday. She used big numbers, but did she actually stop to think what a meagre percentage return on investment this was? Of course not. In fact, most analysts would agree that airlines rank poorly on the

investment scale. Ask the shareholders of American Airlines, United Airlines or Delta Airlines, all just as big and international as Air Canada.

Senator Mercer went on at some length about the accumulated concessions made by Air Canada employees over the years. Senator Mercer is correct. That there have been concessions is indisputable, but Air Canada still exists, still employs 26,000 people and, as we heard yesterday, at first-class salary levels with very good benefits. This is called "reasonable accommodation." I wonder how many of these employees would still have been employed in such a manner had Air Canada ceased to exist. Air Canada employees, wonderful though they are, are not the first to have made concessions nor the only. Over the years, tens of thousands of stakeholders, employers, employees and investors have had to make concessions to ensure the viability of whatever enterprises they were stakeholders in.

Some have talked about the dignity of the working man. When my grandfather walked 400 miles to protest, he was trying to win the most basic of working conditions — wages, benefits and respect. I hardly think that this dispute falls into any part of those criteria.

Let us dispense with the rhetoric. This debate is not about removing rights or breaking long-held beliefs. That is not the issue. We are talking about a simple impasse that could have a profound effect on Canada, its economy and its residents. That is it. Period.

It is time to use some basic Canadian common sense.

As it stands, both sides have agreed on a deal. Where I come from a deal is a deal. You do not shake hands and then hold a gun to the other's head proclaiming, "We want more." Imagine if it was the other way around. The union agreed to a deal with the management negotiating team, and then they went to the shareholders or the board of directors, and they said, "No, go tell the union we want more." It would be outrageous.

As I said, part of the negotiator's function is to take an agreed deal and sell it to their stakeholders — investors, employees, members, whatever.

The investors would appear to be comfortable, if not super happy, with the deal. I suspect that there are many in the families of the 26,000 Air Canada employees who are glad they are not walking the streets with placards and making do on the relative pittance that their strike pay allows.

It is likely somewhere around 200,000 employees of subcontractors and suppliers are awaiting this outcome with bated breath, without voice, opinion or right to action. As Air Canada turns off the taps in the event of a stoppage, and that would happen within a matter of hours, many of those strike-victimized employees would be let go and they do not even get the comfort of strike pay.

• (1530)

These Air Canada families, the subcontractors' employees and their families, are also stakeholders. Do they get a seat at the table? Of course, they do not. They hope and trust that all the principals at the bargaining table will take the wider view and do what is best for all.

The final major stakeholder, and by far the biggest, of course, is the customers. At any time of the year, an operation stoppage by Air Canada would be devastating to the public. We only have to see what happens when major weather problems hit, the delays, the backups, the stranded passengers. However, just before March break, a time cherished by senators as well as tens of thousands of other Canadian families, the timing of the notice of strike and lockout is a bit vexatious. I am just that wee bit cynical enough to suspect that this was not entirely innocent.

Canada's other fine carriers, like WestJet and Porter, do not have the capacity to step into the Air Canada void. Neither airline has regular flights off the North American continent, nor do they have the equipment to do so. There is little or no available capacity to accommodate the needs of passengers.

We also know that Air Canada is a major cog in Canada's freight business. The airline routinely ferries thousands of tonnes of product to and from Canada, all of it vital to Canada's economy. Again, there is no readily available alternative capacity to handle this critical business.

By rapid escalation, an operations stoppage by Air Canada would cause incredible damage to the country's economy, the aviation infrastructure and thousands of families whose well-being relies on the continuing and mutual cooperation of the airline and its employees.

It is these human and general economic factors that have influenced my thoughts. I am satisfied that both sides have worked hard to reach an accommodation, and in fact have reached a deal. The concomitant cost in terms of family and personal hardship, the negative whiplash on Canada's economy at this critical juncture in its recovery, and the overall impact on millions of Canadians and businesses have caused my decision to support this bill. I urge senators on both sides to do likewise.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, I would like to take part in today's debate at third reading of Bill C-33.

Listening to my colleagues, and particularly to the government spokespersons, I think it is extremely important to recall that the main goal of the problem before us has to do with negotiating a collective agreement. It seems to me that what we should be most concerned about is the basic purpose of the whole process: improving working conditions for Air Canada workers. I do not think that we are talking enough about that.

We are talking about the consequences for the business, but we need to remember that this is a bargaining process. The first thing we need to focus on is improving working conditions for Air Canada employees. We see this in the bill. When the government intervenes, there is no reference to this fundamental fact and the primary problem before us: improving working conditions.

There are concerns about the future of Air Canada and its ability to compete and to meet its basic obligations. These are legitimate concerns. However, to achieve the objective of maintaining Air Canada's present or even past position, we must look at more than just the working conditions. That is an important factor, but it is not the only one.

The bias in the government's approach and perspective makes this an unbalanced bill. We can analyze each factor. Air Canada workers have quite rightly interpreted the bill as being much more supportive of the employer than of the workers. There is a lack of balance. We and our colleagues have pointed out that the arbitrator is unilaterally appointed by the minister — the government — without taking the union's viewpoint, opinions and suggestions into consideration.

For example, when the parties submit their offers to the arbitrator — naturally, the offers and demands will be improved — who can believe at this point that the arbitrator will be compelled to accept either management's or the union's offer as presented, instead of using his discretion to find a compromise between the two?

What is the real likelihood that the union's proposal will be accepted by the arbitrator, no matter how much good will, neutrality and competence the arbitrator has?

It is all biased toward the company and its management, and this is happening while they are bargaining. They are negotiating working conditions. Why? Because, historically, the bosses have dictated the working conditions of their employees. It was decided that the parties would be placed on an equal footing and rights given to the workers. That has been the goal of our labour legislation as it evolved. It has been said that collective bargaining involves both parties. In order for both parties to bargain in good faith, they are given the right to strike and the right to lock out. This encourages bargaining and the suggestion of conditions by each party. With unilateral action, such as the introduction of legislation by the government, the system is tossed aside. Since the May election, we have had the Canada Post issue, where the law was set aside once again, and now they are doing the same thing with Air Canada.

A strike in the public sector causes the public considerable inconvenience. Clearly, the speeches heard from the government side concerning these inconveniences are fair and factual. However, this is the very purpose of bargaining. During a strike, workers exercise their fundamental and constitutional bargaining rights. If we do not want the public to be inconvenienced during a strike that affects public services, such as those offered by Canada Post or Air Canada, then the government must take responsibility in the face of public opinion and say that there will no longer be any bargaining with a right to strike.

It is not up to the unions or Canada Post or Air Canada employees to make and implement that decision. It is up to the government. It is a very big decision with very serious consequences because the right to free collective bargaining is set out in the Constitution, along with the right to strike. That goes for both public and private sector employees.

In Ottawa, at the federal government level, there is Canada Post and there is Air Canada; however, provincial legislation in every province still contains the right to strike and that right is exercised in areas that are just as vital as, and even more important than, mail and airline services. It is exercised in the areas of health and education. Does that mean that, as soon as there is a threat of

serious inconvenience as a result of decreased public services — and we agree that this is the case — the solution is to abolish the right to strike by systematically imposing special legislation before that right is even exercised, even if only one, two or three days before? No. The government is interfering in the middle of the process and throwing a fair system off balance.

Is this the regime that we are going to implement across the country in other public services that are just as essential as those provided by the government? I would like to draw your attention to the fact that the two consecutive measures implemented by the government, with regard to Canada Post and the current situation, raise the issue in public opinion of the public sector right to strike in all jurisdictions, and the Canadian government will have to make a decision.

The Leader of the Opposition pointed out that, in the past, strikes took place in the public sector. They were inconvenient to the public but, in the medium term, the entire population benefitted because the working conditions of public sector employees improved considerably, as did the services offered to the public.

• (1540)

Honourable senators, as we move to pass this bill, I think it is very important for all of us to remember that the most important thing is to improve working conditions for Air Canada employees. I hope that everyone will keep that in mind.

In closing, honourable senators, I would note that this has become extremely complicated. The conciliation commissioner and the arbitrator will each table a report. How will both reports be taken into account at the same time?

Moreover, as the unions have pointed out, when the other side talks about the future and about its concern for Air Canada, and rightly so, what will things be like for Air Canada in the medium term if its employees are frustrated by their working conditions and the two parties, the workers and Air Canada, end up in court over this issue?

The union side told us that it would challenge the constitutionality of the bill. What will the future hold for labour relations at Air Canada? It seems to me that this is an issue the government has to take responsibility for and take into account in its actions and its attitude.

That is why, honourable senators, whatever the concerns, and even though public services must be maintained, this is basically about values. It is extremely important to figure out what kind of society we live in. With respect to labour relations, in the past, we succeeded in enshrining protection for fundamental rights in our Constitution, including the right to associate and the right to free negotiation of working conditions. That must always take precedence.

Hon. Pierrette Ringuette: Honourable senators, Senator Finley said earlier that he was a child of the 1960s, and when Senator Rivest rose to speak, I thought to myself: another child of the 1960s. I think that we need someone a little younger to talk about this subject.

I must say that I was deeply disappointed that I could not participate in yesterday's debate here. Basically, I agree with what Senators Cowan and Rivest said. Introducing back-to-work legislation once, under exceptional circumstances, is something that parliamentarians can accept. But in a very short time, Canada's parliamentarians, both here and in the other place, have had to consider several pieces of back-to-work legislation that have been extremely biased with respect to the balance of power in negotiations. That is certainly the case with this bill, because the minister clearly states, in clauses 14(2)(a) and (b), that the arbitrator must side with the employer.

Speaking of Air Canada, in paragraph (a), I quote:

... the short- and long-term economic viability and competitiveness of the employer

and in (b):

... the sustainability of the employer's pension plan, taking into account any short-term funding pressures on the employer.

Honourable senators, as you will recall, in 2003, when Air Canada nearly went bankrupt, the employees in all sections of Air Canada agreed to considerable reductions in order to protect the company. Today, nine years later, we have before us a bill to stop bargaining, which is a right that is guaranteed in the Canadian Charter of Rights and Freedoms. We are also dealing with a company whose senior managers pay themselves several million dollars a year in bonuses. There must be a happy medium.

I would also like to tell honourable senators about an article published last week that quoted the president of the airlines association during a press conference here in Ottawa. He said that the biggest expenses for Canada's airlines are: number one, fuel taxes, and number two, airport taxes. Those are the two biggest expenses for airlines in Canada. It is not employees' salaries.

In closing, honourable senators, I would like to say that I find this bill completely unacceptable at this time, in Air Canada's current circumstances.

[English]

Hon. Terry M. Mercer: Honourable senators, as I rise to speak on this bill, I apologize for not being here earlier. I was meeting with a delegation from Vietnam.

I made mention yesterday in one of my remarks of a message that I received from the pilot's association when I flew up here Monday. It was in the back of everyone's seat on the plane from Halifax. It is headed "Air Canada pilots' commitment to our passengers." Let me read a bit of this for you, if I could, honourable senators. These are their words.

Air Canada Pilots Commitment To Our Passengers.

You may have heard about a recent struggle to reach a new contract with Air Canada. While this may not affect you directly, we want to assure you that we have no issues with our customers. Our sole focus is to get you safely to your destination.

To that end, we are giving you our commitment as professionals that, regardless what happens in our negotiations with Air Canada, we will do our best to avoid disrupting your travel plans.

We have pledged to remain at the bargaining table for as long as it takes to negotiate a new agreement with our employer. We do not want a strike. We want a new agreement.

We've waited over ten years for the opportunity to exercise our right to freely negotiate a contract with Air Canada. If it takes a few more weeks, so be it.

Again, these are their words, not mine. They continue:

In the long run, we'll all be better off. Pilots will know that their issues have been heard and addressed by their airline. And Air Canada will know that its pilots are working with their airline to ensure the long-term viability of our business. And Air Canada passengers will know that their pilot is focused solely on their safety. That is the win-win-win we are working toward at the bargaining table.

Meanwhile, please enjoy your flight. . . .

That is the commitment from the Air Canada Pilots Association.

I will not make mention of the machinists. I thought that the comments made by the machinists in response to questions from Senators Di Nino and Segal yesterday summed it all up. If you were not here for it, it is worth a read. They were probably some of the best responses to committee members I have heard since I have been in this place.

The Air Canada pilots went on, in the back of the brochure, to outline some of the issues. I want to outline them one more time before we get to the voting stage. I want you to remember this:

- Air Canada pilots' pay rates are lower than they were in the year 2000.
- Air Canada pilots have not been able to freely negotiate a contract with their employer for more than a decade.
- When Air Canada was on the brink of bankruptcy in 2004, Air Canada pilots took pay cuts of up to 30 per cent — which is far more than the airline's managers and executives —

— the friends of these people across the way.

• (1550)

It continues:

- When Air Canada was in financial trouble again in 2009, Air Canada pilots agreed to freeze their pay for two years.
- In 2009, Air Canada pilots also granted the company hundreds of millions of dollars of relief from its pension funding obligations.

Another sacrifice by the pilots.

They say:

- In 2010, Air Canada increased compensation to its top five executives by 30 per cent.

That is outlandish in the face of the sacrifices that the pilots, the machinists and all the other unions have made to keep this airline afloat. These people have a lot of gall to do that. They should have been ashamed to come here yesterday and try to defend their actions after all the unionized employees in that airline have made sacrifices well beyond those most other unions in this country have made to help their companies. These people have gone that extra mile, and this is the thanks they get from the people at Air Canada.

Their proposals are fair and reasonable. They say they want a negotiated agreement, not a strike. They want recognition in their contract of the value that they created by flying us safely to our destinations, and they want the airline to begin repaying them for the sacrifices they have made over the years. They want to start addressing the issue of those pilots hit hardest by the cuts and concessions in the past decade, like the young pilots who are stuck in low-paying categories.

Honourable senators, these are honourable people. They have done the honourable thing. They have done something not only for the airline but for the country. Air Canada is the major airline in this country; it is the airline that most of us fly; it is the airline that serves most communities in this country. These pilots, machinists, flight attendants, gates attendants and ticket agents have made sacrifices to keep the airline flying. Now the airline is transferring a large amount of money to the new holding company, ACE. Now that there might be some money to spread around, would you not want to spread it around to the people who helped get you here? The people who helped get the airline to where it is today are the pilots and machinists and all the other workers of Air Canada. They deserve recognition. This bill should be defeated now.

Some Hon. Senators: Hear, hear!

Hon. Wilfred P. Moore: I listened closely to the remarks of Senator Cowan and Senator Finley. I, too, have been a member of a union. I have also negotiated on the management side. I do not think I have ever been in a situation where, once the agreement was struck, the membership decided against it. Like Senator Finley, I am quite disappointed in what happened there.

We have heard about the sacrifices and the contributions made by the staff at all levels to keep the company flying. I agree with Senator Finley that this should not be a partisan matter. He says it is about the economy of Canada. That is partly true, but March break was not invented this week. March break has been planned for well in advance. I do not remember Air Canada advertising anywhere that there was a possibility of a strike during the March break. They did not do that.

The minister said that the cost to the Canadian economy would be \$22.4 million per week. We heard from management and the union that the cost to the airline would be \$30 million per day. It

does not seem to me at all reasonable that management would create a situation in which the airline would not fly and they would lose \$30 million a day. That does not make sense.

All the rhetoric about March break and the economy does not hold up. We heard that the airline grosses \$11 billion a year. The total cost of the pilots' payroll is \$400 million, roughly 4 per cent of the total revenues of the company.

The minister referred this matter to the Canada Industrial Relations Board, and once that happens no one can strike, so there is no need for legislation like this. There is no need for locking out to try to prevent people from going on strike. There was not going to be a work stoppage. This is just rhetoric. By her own actions, the minister has precluded all those things.

On the strength of that, I do not know why we have this legislation, which, by the way, flies in the face of free bargaining, negotiating and everything I have ever been involved in with regard to unions and management. This is nonsensical, unfair and unnecessary.

Honourable senators, I will not be supporting this legislation. I think it is redundant. The minister should follow her own lead. The Canada Industrial Relations Board can handle this. Let the parties get back to the table and negotiate a settlement as they are supposed to be doing. That is the Canadian tradition.

Hon. Joseph A. Day: Honourable senators, I will not speak long on this, but I wanted to go on the record with respect to two matters. I sat through the debate yesterday and today and two things concern me.

One is the point that was just made by my honourable colleague Senator Moore, and that is that this matter has been referred to the Canada Industrial Relations Board by the minister, and therefore there is no possibility of an imminent strike. Therefore, the legislation is unnecessary. In fact, if you equate this to an application for an interlocutory injunction, the injunction would be refused because it is not the time to bring an application for injunction; nor is it the time to bring this legislation.

Second, I found it very disappointing yesterday, when we were in Committee of the Whole, that we were advised by the chair that, notwithstanding that there were many senators who wished to participate in questioning and dialogue with the minister, the minister's time was limited and we had to stop asking questions. I found that to be an affront to the Senate. I felt that if the minister wanted this legislation so badly, she should have made herself available so that we could have had a full discussion.

I will not be supporting the legislation.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Eaton, that Bill C-33 be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion to adopt the bill at third reading will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the “yeas” have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators. Is there advice from the whips?

Senator Munson: We will have a 30-minute bell.

The Hon. the Speaker: Honourable senators, the bells will ring for 30 minutes and the vote will take place at 4:25.

• (1620)

Honourable senators, the question is on the motion by the Honourable Senator Carignan, seconded by the Honourable Senator Eaton, for third reading of Bill C-33, An Act to provide for the continuation and resumption of air service operations.

Motion agreed to and bill read third time and passed on the following division:

YEAS THE HONOURABLE SENATORS

| | |
|------------------|-------------------------|
| Andreychuk | Maltais |
| Ataullahjan | Manning |
| Boisvenu | Marshall |
| Braley | Martin |
| Brazeau | Meredith |
| Brown | Mockler |
| Buth | Neufeld |
| Carignan | Nolin |
| Comeau | Ogilvie |
| Dagenais | Oliver |
| Demers | Patterson |
| Di Nino | Plett |
| Doyle | Raine |
| Duffy | Runciman |
| Eaton | Seidman |
| Finley | Seth |
| Fortin-Duplessis | Smith (<i>Saurel</i>) |
| Gerstein | Stratton |
| Greene | Tkachuk |
| Johnson | Unger |
| Lang | Verner |
| LeBreton | Wallace |
| MacDonald | White—46 |

NAYS THE HONOURABLE SENATORS

| | |
|------------------|--------------------------|
| Baker | Hubley |
| Callbeck | Mercer |
| Campbell | Mitchell |
| Chaput | Moore |
| Cowan | Munson |
| Day | Peterson |
| De Bané | Poy |
| Downe | Ringuette |
| Eggleton | Rivest |
| Fairbairn | Smith (<i>Cobourg</i>) |
| Fraser | Watt |
| Hervieux-Payette | Zimmer—24 |

ABSTENTIONS THE HONOURABLE SENATORS

Nil

• (1630)

FIRST NATIONS ELECTIONS BILL

THIRD READING—DEBATE ADJOURNED

Hon. Dennis Glen Patterson moved third reading of Bill S-6, An Act respecting the election and term of office of chiefs and councillors of certain First Nations and the composition of council of those First Nations.

He said: Honourable senators, I am pleased to lead off our consideration at third reading of Bill S-6, the First Nations Election Act. This bill represents the results of successful collaboration between the Crown and First Nations organizations. It has also received extensive and thorough review at committee. The Crown-First Nations gathering that took place in January 2012 was a special opportunity for leaders throughout Canada to have frank discussions about how all Canadians can work together to improve the quality of life of First Nations men, women and children. In particular, the Crown-First Nations gathering enabled our country's leaders to start talking about specific steps we Canadians can take to remove the roadblocks to progress put in our path by the Indian Act.

[*Translation*]

Indeed, the Prime Minister addressed this point specifically. In his opening remarks at the meeting, he said that instead of eliminating the Indian Act and leaving a big void, there are creative ways to change things by working together and holding consultations between our government, First Nations communities, the provinces and the territories. There are creative ways we could collaborate in order to find alternatives that will lead to practical, progressive and real change.

[*English*]

I agree with the Prime Minister's approach, and I am not the only one who does. During the Standing Senate Committee on Aboriginal Peoples' consideration of Bill S-6, Jody Wilson-Raybould, the British Columbia Regional Chief of the

Assembly of First Nations, made very much the same point as the Prime Minister. Chief Wilson-Raybould said that, during a recent meeting of British Columbia First Nations chiefs, Chief Geronimo Squinas of Red Bluff First Nation likened the Indian Act to an inflated balloon. Chief Squinas argued that if you take a pin and pop the balloon, it explodes, and you are left with nothing but the question of what takes its place.

[Translation]

Inspired by Chief Squinas' balloon metaphor, Chief Wilson-Raybould told the committee members that the best approach for everyone would be to let each First Nations community slowly let the air out of the Indian Act balloon, rather than popping it with a pin. Each community could let the air out at the speed that best reflects the needs, priorities and objectives of that community.

[English]

Honourable senators, the bill before us today enables us to achieve exactly what the Prime Minister and Chief Wilson-Raybould talked about. Echoing the Prime Minister's words, Bill S-6 is a creative and collaborative way to shed a part of the Indian Act and to achieve practical, incremental, real change. Echoing the words of Chief Wilson-Raybould, Bill S-6 makes it possible for each First Nation community to address its electoral needs, priorities and directions on its own terms. The result will be improved governance, chosen by First Nations themselves through opt-in legislation.

How does the First Nations elections act achieve these goals? How does it enable First Nation communities to bring about, on their own terms, effective changes in the way they elect their governments? The answer to that question lies in several provisions of Bill S-6.

[Translation]

First, the term of office of band council members will be four years rather than the two years provided for in the Indian Act. At first this increase in a council member's term of office may seem inconsequential. However, it is a very important change. By doubling a councillor's term of office, the First Nations government will be in a better position to make long-term plans, adopt measures to address important priorities and ensure that the improvement of a community's quality of life is not interrupted or delayed by frequent elections.

• (1640)

[English]

Second, Bill S-6 will make it possible for several individual First Nation governments to line up their terms of office and hold their elections on the same day if they so choose. Aligning election days holds real practical value for First Nations communities. It means that governments of communities that share the same region, province or territory can work in greater collaboration with one another, have the same leaders at the table for four years and conduct more efficient negotiations with other levels of government. As someone who led a territorial government for

some years, I know first-hand how this change will bring about more productive relations among First Nation governments and between all governments.

[Translation]

Third, the First Nations Elections Act clearly defines election offences and introduces penalties that are in line with those established by the Canada Elections Act.

Corrupt practices such as vote buying occur during First Nations elections, but there is no regulatory deterrent to counter this phenomenon because the existing legislation, the Indian Act, does not set out penalties. Bill S-6, which clearly describes these activities and sets out penalties for offences, will deter criminal practices and will allow the courts to punish offenders.

[English]

Fourth, honourable senators, the First Nations Elections Act brings much needed rigour to the nomination of candidates. It does so by prohibiting the same person from being nominated both as chief and councillor in the same election, by limiting the number of candidates any one person can nominate and by requiring that nominees accept their nominations before they actually become candidates.

[Translation]

I should point out, honourable senators, that the provisions in Bill S-6 are the direct result of various recommendations made by the Atlantic Policy Congress of First Nations Chiefs and the Manitoba Assembly of Chiefs.

These two groups played an important role in the drafting of the First Nations Elections Act.

[English]

I believe the First Nations Elections Act is a solid bill that was developed collaboratively. I also made this claim because of what I heard over the past few weeks at our committee. All witnesses who testified before the Standing Senate Committee on Aboriginal Peoples told us that Bill S-6 represents a significant improvement over the Indian Act. Moreover, the Atlantic Policy Congress of First Nations Chiefs told us that they fully support this bill, urging us to move it forward so that many of the First Nations under their umbrella can reap the benefits as soon as possible.

[Translation]

It is also true, honourable senators, that certain witnesses shared their concerns over Bill S-6 with the committee. We were aware of those concerns and discussed them extensively. Even though those concerns did not result in any changes to the bill, we have attached comments to our report to the Senate. The concerns we heard had to do with three components of the bill, which I will gladly sum up for you.

[English]

The first component has to do with the opting-in provisions. The Atlantic Policy Congress told us that, in developing the recommendations to the minister, they carefully considered

the appropriate mechanism for a First Nation to signal to the minister their desire to hold their elections under Bill S-6. They told us that they chose to recommend a band council resolution because they see this as the most expeditious way for the First Nations to begin reaping the benefits of Bill S-6. Some witnesses thought that this could be problematic, especially if the First Nation already had its own community election code with an amending formula that required community consultation or even a community vote.

We need to understand that a band council resolution is only the transmission of a First Nation's decision to the minister. First Nations, regardless of whether they hold elections under the Indian Act or under their own community custom, have community-based processes and procedures for consultation that leadership engages whenever an important decision needs to be made on matters that affect the community. First Nations value these processes and so do we. It is not for the minister, nor his department, to dictate, question or evaluate them.

The second component of Bill S-6 to which some witnesses raised concerns is the provision that allows the minister to order that a First Nations hold its elections under the bill when, and I am citing the bill:

... a protracted leadership dispute has significantly compromised governance of that First Nation; ...

Let us be clear once again, honourable senators, this is a power that the minister already has under the Indian Act, under the situations where the minister deems advisable. This bill is not creating any new powers for the minister. The minister's officials told us that this Indian Act power has only been exercised three times in the last 10 years. We learned that in each case the power was exercised after all reasonable efforts to reach a community-based resolution had been exhausted, including offers of mediation. In one case, the leadership dispute had been ongoing for 15 years.

If this clause was not in the bill and a similar governance breakdown was to arise, the minister would still be able to order the holding of an election under the Indian Act. However, I think we can all agree that when there is a governance breakdown in a community it should have access to the best available legislative framework for elections, which is not the Indian Act, but Bill S-6.

In the committee's observation that I alluded to earlier, we were clear in our belief that the minister should only use this power in the rarest of cases when every other form of dispute resolution or democratic reform at the First Nation level has been attempted and failed. The minister himself stated in the committee that he agreed.

[Translation]

Finally, we heard that the bill's elections contestation provisions, which require that a complaint exist before the case is presented to the court, was an obstacle that would prevent members of the First Nation from having access to a legitimate form of appeal.

It was suggested a number of times that a First Nations election appeal board be created. For Bill S-6, the creation of an appeal board is simply not the right approach.

• (1650)

I want to remind Honourable senators that this is an optional bill that includes provisions on offences and sentences. They will allow the Crown to lay charges for reprehensible acts and the courts to set sentences, as they would during provincial or federal elections.

[English]

It is true that provincial and federal elections benefit from an independent agency to support them. There are existing bodies that could play a role in supporting First Nations elections under Bill S-6 that could be examined during implementation and that do not need to be encapsulated in the bill.

[Translation]

I also want to point out that, despite the existence of the position of chief electoral officer both provincially and federally, these people and the organizations they direct do not have the authority to cancel elections. Those decisions are made by the courts. The bill allows the courts to make this same type of decision for First Nations elections.

[English]

Despite these concerns, honourable senators, this bill has First Nations' support because First Nations communities reserve the right to choose whether the new law will govern elections in their communities. They support it because they know the bill will improve the way First Nations communities, particularly under the Indian Act, conduct their elections, and that it will therefore strengthen the governments that these communities elected.

[Translation]

Honourable senators, even if Canadians do not think about it every day, we are all aware of the advantages of electing a government through fair, responsible and effective electoral practices. We all know that modern and effective governments, on whom power is conferred because of the trust and authority of the public they represent, will improve people's quality of life, meet shared needs and help people reach their objectives and achieve their dreams.

[English]

For First Nations communities, governments elected under the provisions of Bill S-6 will also be in much better positions to collaborate with other governments, plan cooperatively and pursue new ventures. They will be in much better positions to attract new investors and growing businesses, which will translate into new jobs, higher incomes and better standards of living for First Nation men, women and families.

In these meaningful ways, Bill S-6 shows what we can achieve when we work together in the spirit of cooperation and collaboration that was evident at the Crown-First Nations

Gathering. This bill shows us what we can do when we start talking about the specific measures we can take to remove the roadblocks to progress put in our path by the Indian Act, when we develop creative and collaborative ways that provide us with options for practical, incremental and real change, and when we work together to create new laws that enable First Nations communities to address needs and priorities in their own way.

In conclusion, I urge all honourable senators to show that same spirit of cooperation and collaboration, and adopt Bill S-6.

Hon. Jim Munson: Would the honourable senator take a question?

Senator Patterson: Yes.

Senator Munson: I would like to ask a point of clarification. I know that the Atlantic Aboriginals like clause 3(1)(b) it, but why would the government not agree to remove it when at least four delegations of witnesses said they did not like it? The worry is that it gives the minister too much authority.

Senator Patterson: I thank the honourable senator for the question.

The committee did hear the concerns about clause 3(1)(b) of the bill. The concern is that it once again suggests a paternal, colonialist approach where the minister will intervene in the affairs of a First Nations community. However, there were two reasons for the recommendation that this provision be retained.

First, there is a serious qualification on that power; it cannot be done at a whim. There has to be a protracted leadership dispute. I think that those words do have meaning. The present minister said he would use it only in rare circumstances, but I think it would prevent any minister from acting capriciously. "Protracted" means "for a long time" in a leadership dispute. Fortunately, we have heard that those happen rarely.

The other more important reason for keeping this provision is that the Minister of Indian Affairs already has the power to intervene in the affairs of a First Nation in the case of a dispute of this kind without reasons such as a protracted leadership dispute. He can intervene at his discretion.

One might say that if he has the power already, why not leave this out of the bill? The problem is that the minister's power to order a new election under section 74 of the Indian Act takes us back to the Indian Act election. With the Indian Act election, there are no penalties for corruption; there are no penalties under the Indian Act election, which everyone agrees is flawed. You can run for council without even your consent. A person can run for both chief and councillor. It is full of flaws and it is a bad process.

In the rare case of a protracted election dispute, clause 3(1)(b) would give the minister the power to order an election to proceed under Bill S-6, which everybody agrees is progressive.

I did not mention four-year terms. The Indian Act stipulates two-year terms.

The bill brings everyone into a modern election process where there are penalties for corruption and other improper practices. On the face of it, it looks like the perpetuation of the paternal approach, but it will bring struggling First Nations into a much more modern electoral system that every witness who presented to us said is a superior election provision than the Indian Act provisions.

Senator Munson: I thank the honourable senator for what he has said. I know that we have a couple of other witnesses who are not here now who wish to speak to this bill.

(On motion of Senator Munson, for Senator Sibbeston, debate adjourned.)

• (1700)

THE ESTIMATES, 2011-12

SUPPLEMENTARY ESTIMATES (C)—SEVENTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on National Finance (*Supplementary Estimates (C) 2011-2012*), presented in the Senate earlier this day.

Hon. Joseph A. Day moved the adoption of the report.

He said: Honourable senators, I think it is important that we have an opportunity to debate this report, however briefly. It is not an extensive report. This is the exciting time in the afternoon when we have an opportunity to get into matters of finance.

I have asked the pages to ensure that there is a copy of the report on each of your desks, because I appreciate that we just filed it earlier today.

First, let me thank those who participated in the work on this particular matter.

Honourable senators, you referred to us Supplementary Estimates (C) a few weeks ago, and we have done what you asked us to do. You asked us to review and study the supplementary estimates and to report back. We have done so, and this is the report that we are now bringing to your attention.

I would like to thank the members of the National Finance Committee, several of whom are new to the committee, for meeting outside of our normal time to try to meet the short time frame that we had to deal with Supplementary Estimates (C). I particularly want to thank Senator Gerstein for having been the deputy chair of the committee and to welcome Senator Neufeld as the new deputy chair of the committee. I look forward to working with him.

Some Hon. Senators: Hear, hear!

Senator Day: So that you are aware of our team, honourable senators, Senator Runciman is the other member of the steering committee on the National Finance Committee, and I welcome him to that position.

Honourable senators, what is Supplementary Estimates (C)? Supplementary Estimates (C) is the third supplementary group of estimates that the government has presented, saying they would like parliamentary approval by way of an appropriation of these funds.

Why are they not right after the budget? The reason for that is that it takes government a long time to develop its Main Estimates. We will be dealing with Main Estimates on Tuesday, when we are first back. However, the Main Estimates will not reflect the budget that is coming out the same week as we are dealing with the Main Estimates. Therefore, the government needs to have initiatives to reflect those other aspects in the budget and other matters that have not been developed yet or that took some time to develop during the fiscal year. They are in supplementary estimates or, if it requires legislation, from the budget; that would be in budget implementation legislation. Our committee would deal with both of those.

We are dealing here with Supplementary Estimates (C), which is the third one of these during the year, and this one closes out this fiscal year. This fiscal year is over at the end of this month. This supplementary estimate closes out the request for funds for this particular year. The government is asking Parliament to approve voted expenditure. These are the ones that you will be asked to look at in a bill on Tuesday; in fact, it was filed here yesterday from the other place. You will be asked to approve, in appropriations, \$1.2 billion as the final amount of money the government is looking for to close out this particular year.

Honourable senators, the Main Estimates and Supplementary Estimates (A), (B) and (C) amount to approximately \$259 billion that the government expended last year.

These are estimates. We had an interesting discussion in our committee on the issue of what are the actuals. The actuals are reflected in the public accounts, which come out in the fall. Adjustments are made and there are a number of steps that departments have to take before they get to their final amount that they expended during the year. Treasury Board then brings that all together and it comes out in public accounts. You can be assured that the number will be fairly close to \$259 billion.

What I would like to point out to you, honourable senators, is the trend, because \$259 billion is less than last year. That is good. We are all working toward trying to bring down expenses. However, the 2008-09 total estimated government expenditures were \$231 billion. We are a long way from where we were three years ago, and that is what we should keep in mind. For 2009-10, expenditures were \$254 billion; in 2010-11, last year, expenditures were \$276 billion; and now we are back down to \$269 billion. We are starting to move back, but there is a long way to go yet before we have that runaway spending under control, honourable senators. That was one of the points I wanted to make you aware of.

In the time that we had available to us to review the supplementary estimates, we had witnesses from five different government departments. I would like to thank the witnesses for making themselves available on short notice, and I would like to thank our clerk for bringing together the various meetings. Jodi Turner is the clerk for the National Finance Committee.

It is not an easy task for us to review these estimates on short notice. Honourable senators will know that the other place does not provide the same kind of extensive work that we do in relation to these supplementary estimates, and we are proud of the fact that we do this work.

The interesting point is that we were delayed by a week. In the 10 years I have worked on this, I have never seen Treasury Board not react quickly to our request to come and see us. I know His Honour would be aware of that from his time on the committee. Treasury Board has always been cooperative.

We finally found that out the reason is that the House of Commons Finance Committee is going through a review of their actions and their work, and they had Treasury Board there telling them what the Senate is doing. I think that is an excellent bit of news, because the other place is concerned that they are not doing the job that they should be doing with respect to estimates.

Honourable senators, we are setting the pace here. The fact that we got started a week late, under those circumstances, is not so bad after all. I quickly forgave Treasury Board when they told us what they had been up to.

We met with representatives of Treasury Board, National Defence, the Canadian International Development Agency, Human Resources and Skills Development Canada, and Service Canada.

Honourable senators, in reviewing their requests, I will not go through all the different voting requests that had been made. These are the ones you will be required to vote on. I do not intend to analyze each of those. They are in this volume and you can find each of those departments in there.

However, what I wanted to do in the short time that I have available to talk about this report is, first, to tell you why we should be doing this. The supply bill, Bill C-34, arrived last evening, and that has attached to it two schedules. Those schedules are in the supplementary estimates.

• (1710)

We have already, in effect, before we received this bill, studied the schedules. That makes it possible for us not to have that particular bill referred to a committee for study. That saves us a lot of time, but they have to be finished the end of the week we are back. That is why we have a bit of a different procedure with respect to supplementary estimates and supply bills or appropriations.

The highlights of the points I wanted to bring to your attention are, first, the number of dollars being written off with respect to Canada student loans. Under the Canada Student Financial Assistance Act, if a loan is dormant for a period of six years or more, then the government cannot go back to that student and ask the student to pay that loan; the amount is written off. An amount of \$162 million is being written off in Supplementary Estimates (C).

In Supplementary Estimates (B) we wrote off \$149.5 million. That is over \$310 million in student loans that are being written off this year. We said that we have to look into this. What are the

procedures they are following? Why are we writing off this many loans? What is going on? The officials seemed content that only 11 to 12 per cent of student loans are in default, but it sounded like a lot of money to us. They said that 28 to 30 per cent student loans were in default less than 10 years ago. If you look at six years and you think that some students might have been paying on those loans for a short period of time, then they might be the ones that are being written off now. We have asked to investigate and get more information in relation to these particular student loans.

Honourable senators may be interested in knowing that there are outstanding student loans on the books totalling \$14 billion. Ten per cent of that adds up real fast.

The Employment Insurance operating account is another interesting account that we were not aware of in the past. This is an administrative cost for the department to run the Employment Insurance program. Rather than just taking the money out of this pot of money for Employment Insurance, there is an appropriation to go to the department running the program, and that is Human Resources and Skills Development Canada. The amount of \$56.3 million is appropriated by a vote to go to that department so they can cover some of their administrative fees. We thought that was an interesting way to account. It is more open than just dipping into the total account, in any event.

Public Works is another department we talked to. They have an interesting formula. They take 13 per cent of salaries and say that is what they need for office accommodation. If salaries go up and employment goes up, then the 13 per cent goes up and they have extra money that they did not put into renting other accommodation, whether it is needed or not.

That is what some honourable senators were asking. With all this extra office space around, why are they acquiring more office space and putting more money into office space? That was their answer; they get 13 per cent. Salaries have gone up, obviously, and employment has gone up, so they have more money.

The Department of National Defence has requested \$152 million for a training program in Afghanistan. DND estimates that the mission will cost half a billion — \$499 million — over four years. There were a number of other requests for expenditures from DND, but that was one that we will be watching. We thought it was quite a large figure, one we should keep an eye on.

The Canadian International Development Agency, CIDA, told us about a crisis pool. This is over \$200 million that we have voted, and it is a pot of money that they can dip into if they deem there is a crisis.

Might I have a few more minutes?

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Day: It is these types of pools of money that they can dip into, without coming back to Parliament after the fact, that cause us some concern. We have noted that particular one and will be watching that closely.

The purpose is that they want to be able to react quickly to a crisis when it happens. We understand that, but most of these have been managed by emergency funding through Treasury Board, and they have very strict rules. However, this one is different and we will be watching it.

I would like honourable senators to be aware that a lot of money transferred by departments is being converted from contributions to grants. A contribution is money that the government gives to an individual or a group. It sets rules, and accountability and oversight are involved. However, the government is getting out of contributions and getting into grants, where there is much less oversight. They said they are giving these to organizations that they are confident have strict rules about managing things, so they do not need to watch as closely.

Whether or not this is a good thing is a question that only time will tell, but what is important is for us to be aware of that, and in the civil service that is an actual policy that is taking place. We have seen it now on two of the last estimates. I think we will want to follow that one as much as we can during the next session.

Honourable senators, this is the report that you asked us to study. We have done so. We looked at the supplementary estimates. When we deal with this bill at second reading on the Tuesday that we are back in session, we will have already reported on what we found in the two schedules attached to it. That should make the work with respect to this bill go fairly quickly.

Hon. Richard Neufeld: Honourable senators, I rise today to speak in the chamber to the report of the Standing Senate Committee on National Finance on Supplementary Estimates (C) for the 2011-12 fiscal year.

Senator Day has carefully outlined many things. I will be a lot shorter and more to the point.

These estimates are the final estimates that this committee received. Together with Supplementary Estimates (A) and (B), our total estimates to date amount to \$259 billion.

Under the good leadership of our chair, Senator Day, and the collaborative effort of all senators, the committee worked together efficiently in order to produce this report. In a short period of time, the committee heard testimony from five government departments to review these supplementary estimates. These departments included the Treasury Board of Canada Secretariat, the Canadian International Development Agency, Human Resources and Skills Development Canada, Public Works and Government Services and the Department of National Defence.

During the committee's examination of these estimates, senators explored the federal government's rationale for voted appropriation authorization requests and the reasons for changes to statutory appropriation levels for federal departments. The Supplementary Estimates (C) proposed to reduce federal budget authorities by \$0.4 billion, including an increase in voted appropriations by \$1.2 billion and a decrease in statutory appropriations by \$1.6 billion.

• (1720)

During this time of fiscal restraint, the committee was pleased to learn — and Senator Day spoke about this — that the rate of default on Canada Student Loans has decreased as a result of government efforts. In 2003-04, the rate of default on student loans was up to 30 per cent. Today that number has dropped down to 12 per cent.

Furthermore, the committee learned that CIDA and other federal departments have renewed access to a crisis pool of \$200 million, allowing for faster response to global emergencies. Also, \$70.4 million has been set aside for Canada's response to the humanitarian crisis in Eastern Africa resulting from the prolonged drought in the region, and \$5 million for additional grants in support of the education sector.

Again, as Deputy Chair of the Standing Senate Committee on National Finance, I thank all committee members for their hard work in a short period of time, and I am proud of the collaborative work of all my colleagues who sit on this committee. Thank you, honourable senators.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*:

Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to and report adopted.)

CRIMINAL CODE

BILL TO AMEND—DEBATE ADJOURNED

Hon. Bob Runciman moved second reading of Bill C-290, An Act to amend the Criminal Code (sports betting).

He said: Honourable senators, I rise today to speak on Bill C-290, An Act to amend the Criminal Code. My remarks will be brief to match the length of bill.

Bill C-290 has just two clauses. The first clause repeals paragraph 207(4)(b) of the Criminal Code and the second clause says the bill comes into force on a day to be fixed by order of the Governor-in-Council.

Section 207 of the code authorizes the provinces to operate and regulate lottery schemes and, in the course of that authorization, it prohibits certain activities. Paragraph 207(4)(b), the subject of this bill, prohibits betting on single sporting events. This bill repeals that prohibition, while ensuring that such betting will be regulated by the provinces.

Senator Mercer: There will be good odds of this passing.

Senator Runciman: This bill was put forward in the other place by Mr. Comartin and was supported by all parties. In fact, members of all parties spoke in favour of this legislation. The provinces, particularly Ontario and British Columbia, have asked for this change.

I support this bill, not because I am a fan of gambling — just ask my wife; I am not — but because it is obvious that anyone who wants to bet on a football or hockey game is already doing it. Rather than benefiting a provincial government, they are benefiting, among others, organized crime.

It is ironic that the prohibition on single-event sports betting has been retained to prevent organized crime from bribing athletes to throw a game based on the theory that it would be easier to influence the results of a single game than to fix multiple games.

I ask honourable senators to think about that for a moment. If the betting is illegal and underground, is it not more difficult to trace unusual betting activity and discover if the fix was in? This prohibition does not accomplish its intended goal. In fact, it essentially concedes the field to offshore betting organizations, including organized crime groups.

In Canada, betting on two or more sports events — known as a parlay — is perfectly legal and every province offers it through provincial gaming corporations. Canadians bet nearly half a billion dollars a year in these legal bets, but the odds of winning a parlay are vastly lower than betting on a single game, which is why many sports fans seek other ways to place their bets.

This is why the take for organized crime from illegal gambling dwarfs the legal sports betting industry. The 1999 U.S. National Gambling Impact Study Commission's final report estimated that illegal sports betting in the U.S. was up to 100 times that of legal betting, anywhere from \$80 billion to a staggering \$380 billion. There are no authoritative estimates of the illegal sports gambling markets in Canada, but there is no reason to suspect it varies markedly from the U.S. experience.

During my time in the Ontario government, I announced funding for the Ontario Provincial Police to take a leadership role in a province-wide fight against illegal gambling. The Ontario Illegal Gambling Enforcement Unit was formed in 1997. That unit investigated more than 1,300 occurrences in its first five years of operation, charged more than 2,000 people and seized millions of dollars in cash and other items. As Detective Inspector L.D. Moodie of that unit wrote in a 2002 report, and I am quoting from that:

Illegal gambling, while appearing to be a minor part of a Traditional Organized Crime (TOC) network, is actually a foundation upon which most other illicit activities are supported.

Illegal gambling is a major source of revenue for organized crime, and that capital is then laundered through legitimate enterprises. In that same report, Detective Inspector Moodie noted that at least eight murders in Toronto over the previous three years were directly related to the illegal gambling activities of organized crime.

Legal, provincially regulated and operated single-event sports betting offers an opportunity to reduce the revenue stream to these criminal enterprises. It also offers some economic benefits, particularly to border communities that host casinos. The Canadian Gaming Association in a 2011 report entitled *Single-Event Sports Wagering in Canada* had consultants do a case study based on border commercial casinos in Ontario, specifically in Windsor and Niagara Falls. They concluded single-event sports betting would bring in incremental revenue of \$40 million to \$50 million annually and 250 potential jobs between the two cities.

I would like to address briefly another aspect of this, one that concerns me and I am sure is also on the minds of other honourable senators, and that is problem gambling. We do not dismiss this concern. Research shows clearly that around 1 per cent of people have a gambling problem. There is also a legitimate concern that increased availability can lead to more gambling problems. If one can drive 10 minutes to the slots, one may have a greater chance of developing a problem than if one has to travel 5 hours. We know that people have no trouble accessing single-event sports betting now. It is as close as their computer with offshore and illegal websites proliferating on the Internet.

By international standards, Canada does a very good job of promoting responsible gambling, training employees to detect problems and devoting resources to research and treatment. Ontario alone invests about \$50 million a year on education, research and treatment through the Ministry of Health and the Ontario Lottery and Gaming Corporation.

It is also important to remember that this bill does no more than offer the provinces an option. I think some provinces will exercise that option, adding to their own revenue stream and offering other economic benefits to some communities.

• (1730)

At the same time, bringing single-event sports betting under provincial jurisdiction has the potential to deprive organized crime of an important source of funds.

I urge all honourable senators to support this bill on second reading.

Hon. Percy E. Downe: Would the honourable senator take a question?

Senator Runciman: Yes.

Senator Downe: Honourable senators, my honourable friend indicated, if I heard him correctly, that provinces could opt in or out of the program. If the bill passes, would it allow interprovincial betting?

In other words, if someone in Halifax can place a bet on an event that is occurring, even though Nova Scotia has not accepted the legislation, would that revenue go to Ontario or another province that has accepted the legislation?

[Senator Runciman]

Senator Runciman: That is not my understanding. My understanding is if they want to bet on a single event, like on a Toronto Maple Leafs versus Montreal Canadiens hockey game, they can place that wager in a casino in the province in which they reside, and the revenues would go to that province's operation.

(On motion of Senator Fraser, debate adjourned.)

[Translation]

STUDY ON AIR CANADA'S OBLIGATIONS UNDER THE OFFICIAL LANGUAGES ACT

THIRD REPORT OF OFFICIAL LANGUAGES COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Official Languages entitled: *Air Canada's Obligations under the Official Languages Act: Towards Substantive Equality*, tabled in the Senate on March 13, 2012.

Hon. Maria Chaput: Honourable senators, I move that this report be adopted and that pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the President of the Treasury Board being identified as the minister responsible for responding to the report.

She said: Honourable senators, Air Canada, with its related entities, is the only Canadian airline subject to the Official Languages Act.

This obligation was in place from 1969 to 1988, before Air Canada was privatized, and the corporation's language obligations were carried over into section 10 of the Air Canada Public Participation Act, which received Royal Assent in August 1988 and resulted in the company's privatization.

In the fall of 2011, the Standing Senate Committee on Official Languages conducted a study of Air Canada's obligations under the OLA. The report on this study has just been tabled in the Senate.

This is the second time since the corporation was established that the Standing Senate Committee on Official Languages has examined the corporation's language obligations. The first report was released in 2008 and examined bilingualism of Air Canada staff. The starting point for this second study was the Commissioner of Official Languages' report on his audit, which took place from April 2010 to January 2011.

The Committee also reviewed the recommendations made in June 2008 and the actions taken in response, because it is important to determine what has and has not been done.

Honourable senators, according to the Commissioner of Official Languages, year after year, Air Canada is one of three institutions that is regularly the subject of complaints to the commission. The Standing Senate Committee on Official Languages recognizes that Air Canada's linguistic action plan for 2011-14 is a step in the right direction, but there is still a long way to go before the company achieves substantive equality.

I sincerely thank the committee members for their collaboration, their commitment and their teamwork. I would particularly like to thank the deputy chair of the committee for her tireless support.

(On motion of Senator Carignan, debate adjourned.)

ROYAL ASSENT

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

March 15, 2012

Sir,

I have the honour to inform you that Mr. Stephen Wallace, Secretary to the Governor General, in his capacity as Deputy of the Governor General, signified royal assent by written declaration to the bill listed in the Schedule to this letter on the 15th day of March, 2012, at 5:09 p.m.

Yours sincerely,

Patricia Jaton
Deputy Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills assented to Thursday, March 15, 2012:

An Act to provide for the continuation and resumption of air service operations. (*Bill C-33, Chapter 2, 2012*)

• (1740)

THE SENATE

MOTION TO URGE GOVERNMENT TO OFFICIALLY
APOLOGIZE TO THE SOUTH ASIAN COMMUNITY
AND TO THE INDIVIDUALS IMPACTED IN THE
KOMAGATA MARU INCIDENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator,

That the Government of Canada officially apologize in Parliament to the South Asian community and to the individuals impacted in the 1914 Komagata Maru incident.

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, we have prepared some notes for this motion, which requires a great deal of research. I enjoy doing historical research, but since I must go back to 1914, I need a little more time.

Given that we are on the 14th day, I move the adjournment of the debate for the remainder of my time.

(On motion of Senator Carignan, debate adjourned.)

[English]

VOLUNTEERISM IN CANADA

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mercer calling the attention of the Senate to Canada's current level of volunteerism, the impact it has on society, and the future of volunteerism in Canada.

Hon. Terry M. Mercer: Honourable senators, I have a detailed speech of 30 pages here ready to deliver this afternoon with the same enthusiasm that I spoke with earlier on Bill C-33. However, in light of the hour —

Some Hon. Senators: No!

Senator Mercer: Well, honourable senators, Senator Plett does not seem as enthusiastic as the rest of you, and I would not want to ruin his weekend.

Some Hon. Senators: Oh, oh.

(On motion of Senator Mercer, debate adjourned.)

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS OF THE SENATE WITHDRAWN

On Government Business, Motions, Item No. 71, by the Honourable Senator Wallace:

That, on Thursday, March 15, 2012 and on Thursday, March 29, 2012, for the purposes of its consideration of Bill C-19, An Act to amend the Criminal Code and the Firearms Act, the Standing Senate Committee on Legal and Constitutional Affairs have the power to sit even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

Hon. John D. Wallace: Honourable senators, I withdraw motion 71 standing in my name.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

(Motion withdrawn.)

[Translation]

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO STUDY ISSUES PERTAINING TO HUMAN RIGHTS OF FIRST NATIONS BAND MEMBERS WHO RESIDE OFF-RESERVE

Hon. Patrick Brazeau, pursuant to notice of March 13, 2012, moved:

That the Standing Senate Committee on Human Rights be authorized to examine and report on issues pertaining to the human rights of First Nations band members who reside off-reserve, with an emphasis on the current federal policy framework. In particular, the committee will examine:

- (a) Rights relating to residency;
- (b) Access to rights;
- (c) Participation in community-based decision-making processes;
- (d) Portability of rights;
- (e) Existing Remedies; and

That the committee submit its final report no later than February 28, 2013 and that the committee retain all powers necessary to publicize its findings until 30 days after the tabling of the final report.

[English]

Hon. Joan Fraser: Would Senator Brazeau be good enough to give us a little more detail on what is involved in the motion? I believe the topics that are outlined in the motion sound interesting. I am just wondering what will be involved in this study. Will it involve a lot of travel? The committee is giving itself until next February. Does it expect to take that long, that kind of thing?

Senator Brazeau: I thank the honourable senator for the question.

Back in 1999, there was a Supreme Court decision called *Corbiere* that dealt with the right for off-reserve Aboriginal peoples to vote in band elections. While that Supreme Court decision was handed down and therefore granting off-reserve band members the right to vote, the Supreme Court also touched upon the issue of rights in general for those who decide to live off the reserves.

Essentially, the committee is proposing to take a look at the rights of off-reserve band members and whether they can have equal access to the rights that their on-reserve counterparts have and exercise those rights. The bulk of the work being proposed is to have regular witnesses come here to Ottawa, but given the fact

that this study is looking at the rights of those off-reserves, we are proposing to have three site visits, particularly in Western Canada where the majority of off-reserve Aboriginal peoples live today.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

Hon. John D. Wallace, pursuant to notice of earlier this day, moved:

That, on Wednesday, March 28, 2012 and Thursday, March 29, 2012, for the purposes of its consideration of Bill C-19, An Act to amend the Criminal Code and the Firearms Act, the Standing Senate Committee on Legal and Constitutional Affairs have the power to sit, even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Senator Wallace: Honourable senators, I will speak briefly to this motion. The reason for the motion would be to allow our committee to sit while the chamber may be in session. There is a particular law enforcement panel which we thought could appear this week, but they were unable to do so. We want to make certain they are able to appear before us and that, in all likelihood, will be two weeks from next Wednesday.

The motion is in respect of Wednesday, March 28 and Thursday, March 29. On March 28, there is a law enforcement panel that in all likelihood we will hear prior to our regular time, which is 4:15 p.m. on Wednesday. Then, on Thursday, our normal committee time extends from 10:30 a.m. until 12:30 p.m. and, in all likelihood, it will extend beyond that time because of the witnesses we have and our desire to move to clause-by-clause consideration on that day.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

[Translation]

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, March 27, 2012 at 2 p.m.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, March 27, 2012 at 2 p.m.)

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DEBATES OF THE SENATE

1st SESSION

• 41st PARLIAMENT

• VOLUME 148

• NUMBER 63

OFFICIAL REPORT
(HANSARD)

Tuesday, March 27, 2012



The Honourable NOËL A. KINSELLA
Speaker

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, March 27, 2012

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

PUNISHMENT FOR SEXUAL PREDATORS

Hon. Doug Finley: Honourable senators, last Tuesday, serial sex offender Graham James was sentenced to a meagre two years in jail for sexually assaulting two young hockey players. Something is horribly wrong with our system when such an offender is sentenced to only two years in prison for such horrendous crimes. Compare that to the potential 400 years that Jerry Sandusky could get in the United States. A *Toronto Star* article noted on this ruling that:

... the judge also pointed out that James expressed remorse, apologized to his victims and has experienced what she called "an extreme degree of humiliation" — factors that warranted a reduction in his sentence.

Extreme humiliation? Graham James deserves more than extreme humiliation for the disgusting crimes he committed against children. How is this justice? Sparing the disgrace of a sexual offender appears to have taken precedence over providing justice for these two victims. Even Mr. James' brother believes he should face at least life in prison. Steve Simmons, from the *Toronto Sun* wrote, "Two years for Graham James isn't a sentence, it's a gift."

Graham James received a feeble sentence; surely no one doubts that. Meanwhile, Mr. Fleury and Mr. Holt could only bemusedly accept their abuser's good fortune, like so many other victims. What about their humiliations time after time after time?

Graham James was in a position of authority and trust. Not only did he abuse that authority, he destroyed that trust. James has damaged the lives of at least four individuals and apparently countless others who have not yet come forward. Regrettably, this abject failure by our court system will do little to encourage other alleged victims to raise their voices.

Graham James had previously served 18 months of a three-and-a-half-year sentence after pleading guilty to sexually assaulting two other boys 350 times, and then later he received a pardon for it. I recall Senator Carstairs saying during one debate that once is too much. I wonder what 350 represents.

One of James's victims was Sheldon Kennedy. Mr. Kennedy appeared before the Standing Senate Committee on Legal and Constitutional Affairs in February and stated:

We constantly tell our children and their caregivers to come forward and to tell someone. They need to know that the courage it takes to tell someone and report this will

result in consistent convictions that will stick and that justice will be served. To me, the fundamental reason for change to these laws is simple — we cannot let these perpetrators walk freely among our youth organizations, our schools, our neighbourhoods and our workplaces. Children need to feel safe and parents have to trust that the government is playing a role in protecting them.

Honourable senators, this two-year sentence for Mr. James is a mockery and an insult to these victims. Cases like this, where justice was not rightfully served, are precisely why we need to impose tougher sentences. In order to protect our youth and to preserve the integrity of our legal system, we need harsher punishments for sexual predators who commit crimes against minors. Todd Holt summarized the judge's ruling as nothing short of a national travesty — a national travesty indeed.

• (1410)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation of army cadets, along with representatives of the Army Cadet League of Canada (Ontario), the Canadian Forces, the Ontario Legion Provincial Command and the Vimy Foundation of Canada. They are guests of the Honourable Senator Munson.

On behalf of all senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

VIMY RIDGE DAY

THE ARMY CADET LEAGUE OF CANADA

Hon. Jim Munson: Honourable senators, as His Honour mentioned, we have special guests here today. They are guests of mine and guests of yours, and they are great Canadians. They are accompanied by my old friend Don McCumber, who is President of the Ontario branch of the Army Cadet League of this country.

I am so pleased, Senator Marshall, that your side and our side have agreed to put these pins on. It is very important. Their presence here today is part of a lead-up to Vimy Ridge Day on April 9. The Army Cadet League is a national program that offers 12- to 18-year-olds opportunities to take part in challenging outdoor activities to help them become responsible, healthy members of their communities.

The cadets also participate in a special educational program, introduced just last year, focusing on the Battle of Vimy Ridge. This historic battle took place in 1917, almost 100 years ago, but its significance and the courage of those Canadian soldiers who were there is as relevant today as ever.

With knowledge about the contributions that our soldiers have made to ensure our freedom, today's young generation will be ready to pass the torch of remembrance to future generations. The cadets who complete this program receive the Vimy Pin, which is produced by the Vimy Foundation to commemorate and build awareness of this important military event. The Vimy Foundation has generously offered to provide these pins to all of us. If you have not received a pin, we have a few more. Please let us know, and I will see that you get one. If you would like to know more about the design of the pin, you will find lots of interesting information on the Vimy Foundation's website.

I want to thank the foundation and the members of the Ontario Army Cadet League for their being with us today and for their efforts to ensure that we remain mindful of the acts of courage that have helped to shape this country.

Cadets, I have a few personal memories. I will keep them brief. When I was a national reporter, I covered a major anniversary of Vimy Ridge. It was 1987. Many veterans were at the ceremony. As a foreign correspondent, I have never been more moved than by listening to their stories — the living stories at that time — at the site which defined Canada as a nation.

Right here in the Senate, we had a senator whose father fought at Vimy. The late Senator Atkins' dad had a diary of that day in which he described his experiences in typical soldier fashion. The entry from Sergeant George Atkins simply reads:

Put over a barrage this morning 5 a.m. The Canadians took Vimy Ridge aflying, took a lot of prisoners.

Simple as that.

Only a couple of years ago, Senator Atkins said this about his dad:

My father taught me a great deal about values, ethics, loyalty to a cause, and loyalty to one's beliefs. He was so proud of his country and its people.

Cadets, I believe these are the words that should guide you. We shall never forget Vimy.

INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION

Hon. Donald H. Oliver: Honourable senators, March 21 was the United Nations International Day for the Elimination of Racial Discrimination. Each year on this day, citizens of the world are reminded of their obligation to combat racism. I rise today to speak about several groups of Canadians who are in need of our special interest. I refer specifically to visible minorities, Jewish, and Aboriginal peoples across Canada who continue to face discrimination.

This year's theme was "Racism and Conflict." The United Nations believes that "in many parts of the world, racism, prejudice and xenophobia create extreme tension and are used as powerful weapons to engender fear or hatred." I think, for

instance, of the senseless killings that took place in France this month, where a self-proclaimed al Qaeda operative killed seven people, including a rabbi and three Jewish schoolchildren. It was an act of terrorism based on race.

At home, March 21 allows us to celebrate Canada's many accomplishments in the fields of diversity and equality. For the occasion, the Governor General David Johnston said:

Canadians are fortunate to live in a multicultural society, where diversity is both a source of great strength and the foundation of our national identity. And yet, as those who endure the indignity of discrimination well know, fear and prejudice never rest, and no society is free of racism.

Indeed, Canada is not immune from race-related crimes. Last month, I rose in this chamber to share with you specific examples of acts of racism that have taken place in Canada recently. As Prime Minister Harper said:

While Canada's international reputation as a tolerant, free and pluralistic society is well earned, our Government recognizes how important it is to continue working closely with partners across the country to eliminate racism in all its forms.

Honourable senators, I agree with our Prime Minister. I believe that it is time that the Senate conduct a special study on the daily challenges of our racialized minorities. We need to find ways to combat racial discrimination and ensure that all Canadians are given equal opportunities. Perhaps even a special joint committee of the Senate and the House of Commons could look into these problems that have been a blemish on Canada's reputation around the world as a welcoming and tolerant society.

Honourable senators, I hope that you, as Canadian parliamentarians, will join me in reaffirming our commitment to diversity, inclusion and justice.

The first article of the Universal Declaration of Human Rights affirms that:

All human beings are born free and equal in dignity and rights.

We have a responsibility to promote, uphold and protect the ideals of the declaration. The time has come for us to focus our efforts on trying to make our country more tolerant by conducting an in-depth study on race and discrimination in Canada.

[Translation]

LE CONSORTIUM NATIONAL DE LA FORMATION EN SANTÉ

Hon. Marie-P. Poulin: Honourable senators, in 1999, a national experiment was launched, coordinated by the University of Ottawa. The goal was to enhance French-language training for health care professionals in a host of disciplines, such as medicine, speech therapy, nursing, social work, rehabilitation and palliative care.

The project is now well into its third phase, which began in 2008 and is scheduled to end in 2013. It has proved to be a resounding success by increasing the number of health care professionals and thus making it possible to improve French-language health services in all provinces and territories and create interprovincial and inter-institutional partnerships.

Officially known today as the Consortium national de formation en santé, or CNFS for short, the experiment engages a pan-Canadian group of 11 colleges and universities offering French-language health care education, as well as six regional partners that facilitate access to a variety of training programs.

The CNFS's national secretariat plays a leadership and coordination role and embodying a novel governance and funding model that allows CNFS member institutions to receive federal government funding from Health Canada through the Roadmap for Canada's Linguistic Duality 2008-2013.

In practical terms, CNFS enables francophones wishing to pursue health care careers to do so without leaving their home provinces. And, after graduating, 86 per cent of these students end up working in francophone minority communities and 79 per cent of them end up working in their own provinces or hometowns. The 2,834 bilingual CNFS students who have graduated so far are also qualified to provide health care to the non-francophone population at medical facilities across the country.

The third phase of this project is scheduled to end on March 31 of next year. It would be a shame if this health care initiative were allowed to expire.

• (1420)

We can only hope that the government will acknowledge the accomplishments of CNFS and continue to provide it with funding for the next phase until 2018.

Honourable senators, I ask you to join me in congratulating CNFS, which has brought together a remarkable number of teaching institutions across the country to train health care professionals in French. I also invite you to support the ongoing funding of CNFS. Thank you.

STAR ACADEMIE 2012

Hon. Percy Mockler: Honourable senators, as we say back home: Wow! Today, the people of New Brunswick can take enormous pride in their artists.

Honourable senators, I am talking about a young man from Sainte-Anne-de-Madawaska. I am proud to speak today to offer my most sincere congratulations to Jason Guerette, an artist from my home region, on his great performance on the show *Star Académie* 2012. I am sure that this unforgettable experience is the start of a long career in show business for him. He has taken a new step toward achieving his dreams and then some. He was chosen among 5,000 talented Canadians from Quebec and Acadia.

Throughout his journey, Jason has demonstrated his leadership to his teachers, the judges and the people of Canada, Quebec and Acadia. His confidence, determination, tenacity and perseverance have made him a world champion. The people of the small village of Sainte-Anne, his friends, all Brayons, and Acadia are proud of him.

In addition to showcasing his immense singing talent at the national and international level, Jason has also become greatest great ambassador of our province and of Canada.

Like the Guerette family, I am proud to tip my hat to the brilliant career he has begun at *Star Académie*, where he is following in the footsteps of Céline Dion, Roch Voisine and others.

In closing, honourable senators, join me in congratulating Jean-Marc Couture, an Acadian and the overall winner of *Star Académie* 2012, on his success and on the brilliant career he will have alongside major artists. Congratulations also to the entire *Star Académie* team, especially Julie Snyder and Pierre Karl Péladeau for their leadership, fantastic commitment and support for our young Canadian, Quebec and Acadian talent. As the Brayons like to say, Job well done!

Jason and Jean-Marc, our hats are off to you. You have earned your stripes.

[English]

FRASER VALLEY CULTURAL DIVERSITY AWARDS

Hon. Mobina S.B. Jaffer: Honourable senators, on Friday, March 2, I had the pleasure of attending the Fraser Valley Cultural Diversity Awards in Abbotsford, British Columbia.

The Fraser Valley Cultural Diversity Awards recognizes all aspects that encompass diversity, including gender, age, socio-economic status, race, religion and sexual orientation. The vision for the ceremony is to present cultural diversity with a broad scope in an effort to ensure that people from all communities are able to identify with concepts of inclusion and discrimination.

This event also sets out to encourage people to be more mindful of not only the barriers that they themselves often face but also the barriers that others often face. For a decade, this awards ceremony has celebrated diversity by recognizing the accomplishments and best practices of organizations, initiatives and businesses in the Fraser Valley.

Among this year's award recipients, École Mission Central Neighbourhood Centre, which provides services and individual support for all age groups, won the Inclusive Environment Award; Crystal Hearing and Vision Centre was awarded the Marketing Award; the City of Abbotsford Building Connections Project, which addresses the cultural and faith silos that exist in Abbotsford by building intercultural and interfaith connections, was the recipient of the Outreach Award; Columbia Kitchen Cabinets was the winner of the Reflective Workforce Award; the Honouring Our Teachers Ceremony, an Abbotsford School District professional development day put on by the Aboriginal

Education Centre, was the recipient of the Innovative Initiative; and last but certainly not least, Dorothy Jeffery and Harold Rosen were the recipients of the Champion of Diversity Awards.

Looking around the room, it became clear that the whole of Abbotsford was represented at the event. As senators, we often have the privilege of attending events in our communities. In my experience, I have noticed that many events I attend showcase a particular community that exists within a larger community. What makes the Fraser Valley Cultural Diversity Awards truly special is that people from all communities in the Fraser Valley were represented. I personally find the enthusiasm with which people from every ethnicity, gender, religion and ability come together to celebrate these awards to be truly inspiring.

I would like to congratulate the chief organizer of the Fraser Valley Cultural Diversity Awards, Ms. Manpreet Grewal, and Ms. Virginia Cooke, the president of Abbotsford Community Services, for making the awards such a great success. I would also like to applaud the community of Abbotsford for embracing the true meaning of diversity.

[Translation]

ROUTINE PROCEEDINGS

PRIVY COUNCIL

SPECIAL ECONOMIC MEASURES (SYRIA) REGULATIONS AND SPECIAL ECONOMIC MEASURES (SYRIA) PERMIT AUTHORIZATION ORDER TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to section 7 of the Special Economic Measures Act, I have the honour to table, in both official languages, copies of the Special Economic Measures (Syria) Regulations and the Special Economic Measures (Syria) Permit Authorization Order, announced on March 5, 2012.

[English]

STUDY ON THE PROGRESS IN IMPLEMENTING THE 2004 10-YEAR PLAN TO STRENGTHEN HEALTH CARE

SEVENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled *Time for Transformative Change: A Review of the 2004 Health Accord*.

(On motion of Senator Ogilvie, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

CERTAIN GOVERNMENT BILLS

FIRST REPORT OF SPECIAL COMMITTEE PRESENTED

Hon. Hugh Segal, Chair of the Special Senate Committee on Certain Government Bills, presented the following report:

Tuesday, March 27, 2012

The Special Senate Committee on Certain Government Bills has the honour to present its

FIRST REPORT

Your committee recommends that its name be changed from the Special Senate Committee on Certain Government Bills to Special Senate Committee on Anti-Terrorism.

Respectfully submitted,

HUGH SEGAL
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Segal, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[Translation]

THE ESTIMATES, 2012-13

MAIN ESTIMATES—EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the eighth report of the Standing Senate Committee on National Finance on the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2013.

With leave of the Senate and notwithstanding rule 58, I move that the report be placed on the Orders of the Day for consideration later this day.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

(On motion of Senator Day, report placed on the Orders of the Day for consideration later this day.)

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Claude Carignan (Deputy Leader of the Government) presented Bill S-9, An Act to amend the Criminal Code.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

• (1430)

[English]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE POWERS AND RESPONSIBILITIES OF THE OFFICERS OF PARLIAMENT AND THEIR REPORTING RELATIONSHIPS TO THE TWO HOUSES

Hon. Gerald J. Comeau: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report on the powers and responsibilities of the officers of parliament, and their reporting relationships to the two houses; and

That the committee present its final report no later than March 31, 2013.

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE EVOLVING LEGAL AND POLITICAL RECOGNITION OF THE COLLECTIVE IDENTITY AND RIGHTS OF THE MÉTIS

Hon. Gerry St. Germain: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the evolving legal and political recognition of the collective identity and rights of the Métis in Canada, and, in particular on,

- (a) the definition, enumeration, and registration of the Métis;
- (b) the availability and accessibility of federal programs and services for the Métis; and
- (c) the implementation of Métis Aboriginal rights, including those that may be related to lands and harvesting.

That the Committee submit its final report no later than June 30, 2013, and that the Committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY EAST AND WEST COAST NAVY AND AIR FORCE BASES

Hon. Pamela Wallin: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on Canada's east and west coast navy and air force bases; in particular the committee shall be authorized to examine the capabilities, roles, responsibilities and state of readiness of:

- (a) Maritime Forces Atlantic (MARLANT) and Maritime Forces Pacific (MARPAF) headquarters, including their respective Joint Task Forces;
- (b) the Joint Rescue Coordination Centres, the Joint Operations Centres and the Marine Security Operations Centres (MSOC);
- (c) the long range patrol and transport and rescue squadrons;
- (d) the Royal Canadian Navy submarine fleet;
- (e) the Royal Canadian Navy Halifax Class frigate fleet, including an examination of the Halifax Class Modernization Frigate Life Extension Program (HCM FELEX); and
- (f) the Royal Canadian Air Force search and rescue and maritime helicopter fleets.

That the Committee submit its final report to the Senate no later than December 31, 2013, and that the Committee retain all powers necessary to publicize its findings until March 31, 2014.

[Translation]

QUESTION PERIOD

TRANSPORT

AIR CANADA—AVEOS

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate. Under federal legislation passed in 1988, Air Canada has an obligation to keep its maintenance and repair centres in Montreal, Mississauga and Winnipeg. We are talking about 2,600 workers. Some 2,600 Canadian jobs could disappear.

The mayors of the three cities in question — including Sam Katz from Winnipeg — wrote a joint letter to the Prime Minister of Canada invoking that clause in the federal legislation and

insisting that those jobs be kept in Canada. The government would certainly not want to face legal proceedings to have the legislation enforced, since we are talking about an illegal shutdown of Aveos repair centres across Canada.

Would the leader not agree that Air Canada must obey the law? Is the government prepared to intervene and ensure compliance with the legislation?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I thank the honourable senator for the question. We recognize that the loss of these jobs is devastating for the workers and for the communities in which these facilities are located. Yesterday, Minister Lebel asked the Transport Committee in the other place to look into the issue and hear from all of the parties involved.

As the minister has stated, and what is fact, is that this is ultimately a private sector issue between these two companies. Obviously, this is a situation that Air Canada and this private company have to work out.

However, with regard to the Air Canada Public Participation Act, the law is the law. The act requires that Air Canada maintain operational and overhaul centres in Montreal, Mississauga and Winnipeg. I repeat: obviously, the law is the law. We expect the law to be adhered to. We will monitor developments surrounding Aveos and Air Canada and examine the advice that we receive from the committee in the other place.

[Translation]

Hon. Céline Hervieux-Payette: Honourable senators, you understand that the presumed loss of jobs in Montréal, Winnipeg and Mississauga is not convincing. This is another way of intimidating the workers regarding the issue of bargaining with Air Canada, which, as we all know, has a less than stellar record when it comes to bargaining and labour relations. But there appears to be a double standard here. There does not seem to have been any committee that could have ordered the government to intervene in the case of Air Canada; the government intervened right away.

Can someone tell us when the minister will intervene? There are 1,800 people out on the street and families are suffering. People have the right to have a job. Until the government says it will obey the law, who will take care of maintenance on these planes? I believe that safety does fall under your jurisdiction. So, when does the government plan to intervene and put an end to this intimidation?

[English]

Senator LeBreton: Honourable senators, obviously, this is a private company; Air Canada is an important facility for Canadians.

With regard to the Aveos facilities in Mississauga, Montreal and Winnipeg, this is a situation that does cause concern. Air Canada is a private company and it is a global company. There are facilities around the world for maintenance, although I cannot comment directly on the internal operations of Air Canada.

With regard to Aveos, it is a private company. However, I hasten to point out that our government has made investments totaling more than \$393 million in more than six different companies in Montreal. There are other companies in the aerospace industry in Montreal that have benefited from the policies of this government. This does not take away, of course, from the seriousness of the issues with regard to maintenance for Air Canada. Again, Aveos is a private company; Air Canada is a private company. We would hope that they would work out their maintenance situation among themselves.

[Translation]

Senator Hervieux-Payette: Honourable senators, we all know that these are private companies, but they are nevertheless subject to the government's legislation, and the government's legislation says that this company is authorized to perform aircraft maintenance.

I do not see how maintenance of Air Canada planes can be transferred overnight to Boston, New York or Chicago when there are qualified employees here. If the government really wants to create jobs in Montreal, why not start by saving the ones that are already there?

There has been talk about qualified jobs. This is retaliation by a company that did not exactly do an outstanding job during contract negotiations. To us, the important thing is knowing when the government will enforce its own laws.

• (1440)

[English]

Senator LeBreton: Honourable senators, the government, of course, is very concerned about the situation that developed with regard to Aveos, and Minister Lebel has also indicated that he is seeking legal advice as to how to proceed with this very difficult situation.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, my supplementary question is for the Leader of the Government in the Senate. No doubt you recall that the Right Honourable Brian Mulroney privatized Air Canada and that he made three firm, solemn promises at the time.

The first was to keep corporate headquarters in Montreal, but now, decisions are made in Toronto even though the company is headquartered in Montreal. The second was to respect bilingualism at Air Canada. Every year, Air Canada falls short with regard to bilingualism. The third was to keep maintenance centres in Montreal, Winnipeg and Mississauga. The Right Honourable Brian Mulroney formally made those promises when Air Canada was privatized.

There is talk of a parliamentary commission. It would be interesting to hear from Mr. Mulroney about how the government is dealing with this file. My specific question is about the significant concerns of workers who have lost their jobs.

The government — the minister just made reference to this — said that Minister Lebel has referred the question to a parliamentary committee. Given that a parliamentary committee will take a month or two to produce a report, can the minister guarantee workers today that all the Aveos facilities will remain in place and that Aveos and its facilities will not be dismantled?

If a parliamentary committee does produce a report, the government could then say that the infrastructure no longer exists and that workers cannot go back to Aveos. Before referring this issue to a parliamentary committee, did the government ensure that Aveos will not make any changes to its maintenance centre for Air Canada aircraft in Montreal?

[English]

Senator LeBreton: Honourable senators, I cannot give any assurance at all, because we are talking about a situation between two private companies, and obviously the situation is of great concern. However, as I just indicated to Senator Hervieux-Payette, Minister Lebel is seeking advice, including legal advice.

To answer the honourable senator's specific question, the government obviously cannot intervene in a situation between two private companies. The actions of the government with regard to Air Canada were specifically to protect the public, the consumer, Air Canada, and all the people involved with Air Canada. We heard witnesses here in this very chamber. At that time, the Aveos issue was not before us. This happened after the legislation was passed. I hasten to point out that this legislation was passed; it did get the consent of both houses of Parliament. However, I cannot, honourable senators, make any comment on how the government would ever possibly intervene in a dispute between two private companies, Aveos being one.

Hon. Terry M. Mercer: Honourable senators, it seems to me somewhat ironic for the minister to be standing up here talking about two private companies and saying that governments cannot get involved. I changed my seat this week, but I did not think I had changed chambers entirely. It was here, not two weeks ago, that this government interfered with this private company, Air Canada, in labour negotiations between itself and its pilots and its machinists. Remember that at that time not a single hour of work stoppage had happened, either by layoff or by strike, not a single hour. However, today, thousands of people in Montreal, Mississauga and Winnipeg are without jobs, and the minister is doing what?

This is a much more critical situation than we had a couple of weeks ago, when Parliament was brought to a halt so we could all spend our time debating legislation to force Air Canada pilots and machinists into a situation that they already said they were quite prepared to negotiate. What is the difference now? There are thousands of people who do not know how they will pay next month's mortgage. This is a critical situation that this government needs to address today.

Senator LeBreton: First, with regard to Bill C-33, which proceeded through both houses of Parliament, with the consent of both houses, the government acted to protect, as I mentioned a

moment ago, the travelling public and the Canadian economy. We saw examples last week of how this dispute is interfering with the lives of Canadian families and the Canadian public. We will always act in the best interests of the Canadian public.

With regard to Aveos and the facilities in Winnipeg, Mississauga and Montreal, I can only tell the honourable senator that the Minister of Transport is seeking legal advice, and he will take this advice and act on it in the best interests of all of us. I would suggest that I would want to see what advice is given to the Minister of Transport before moving forward on this dispute between Air Canada and a private company.

Senator Mercer: I do not know where the leader got the advice for the labour minister to act as she did a couple of weeks ago. The leader's comments are "to protect the Canadian economy and the travelling public." I do not know what is more important for protecting the Canadian economy than keeping people working at jobs in Canada. That seems pretty logical to me. In terms of protecting the travelling public, part of the job of these people is to help maintain the planes and the safety of those planes.

This makes no sense. The minister has not connected the dots here. The logic escapes me, it escapes thousands of Canadians, and it certainly escapes the employees of Aveos, who find themselves on the street not knowing how they will pay next month's mortgage.

This is an issue for today. This is not an issue for Minister Lebel to go off and consult with some lawyers in the Department of Justice or elsewhere. Minister Lebel, the industry minister and the labour minister — and whatever other minister needs to be involved — need to act now.

Senator LeBreton: Honourable senators, I can only say what I have already said. Obviously, we are very concerned about the Aveos workers in Mississauga, Winnipeg and Montreal. The Minister of Transport is seeking advice as to how to deal with the situation. Air Canada has a responsibility to the Canadian public to provide safe passage for its customers. Obviously, Air Canada would take that responsibility very seriously, and I can only suggest to the honourable senator that until Minister Lebel has had a chance to look at the various options and decide what we should do to proceed, there is nothing more I can add at the moment.

[Translation]

Hon. Maria Chaput: I would like to ask a supplementary question. I have a very serious concern about Aveos. First, Canada will lose over 2,400 jobs because Aveos is closing the three centres. Second, I see here that Aveos's parent company in South America is tripling its operations. How can we be losing jobs in Canada when the same parent company is tripling its operations in another country? Is this true? Can you explain to me what is happening?

[English]

Senator LeBreton: Honourable senators, I cannot stand here, as Leader of the Government in the Senate, and answer for policy decisions of a private company.

• (1450)

Obviously there is a concern with regard to these jobs in Canada, but I have not read the article to which the senator referred. In my capacity as Leader of the Government in the Senate, I cannot possibly answer for any private sector company in the country, let alone Aveos.

INFRASTRUCTURE

POWER CABLE PROJECT FOR PRINCE EDWARD ISLAND

Hon. Catherine S. Callbeck: Honourable senators, my question is directed to the Leader of the Government in the Senate. More than a year ago Prince Edward Island applied for funding under the Green Infrastructure Fund. It was to help fund the upgrade of the electrical transmission system between my province and New Brunswick.

This is a very pressing issue for Islanders because the two cables that we have are 35 years old, and their potential life span is 40 to 50 years. Last week it was discovered that one of the cables had been punctured. Fortunately, it will be fixed without much electrical impact on the province, but the fact remains that we need two cables to provide power to the whole Island.

Islanders have been waiting for over a year for word on this funding under the Green Infrastructure Fund. Will this government help fund the power cable project for Prince Edward Island?

Hon. Marjory LeBreton (Leader of the Government): I thank the senator for the question. Honourable senators, I believe we tabled an answer to this very question last week, but I will double check that. I will take the question as notice as I check these other facts.

Senator Callbeck: I thank the leader for taking that as notice, because this matter is certainly of great importance to Prince Edward Islanders.

Power from the mainland is currently our primary source of electricity, and we need to have secure and stable transmission lines to the mainland. As I said, the two cables we have are 35 years old and their potential life span is 40 to 50 years.

This has been a serious issue for Islanders for many years, and we all know that the previous Liberal government committed to sharing the cost, but the deal was cancelled under this government. Ever since it was cancelled, provincial politicians and officials have been making applications and meeting with their counterparts in Ottawa to try to get some funding for a new cable.

The leader said she would take the question as notice. Would she include as well, if a decision has not been made, when Islanders can expect to receive a decision on this?

Senator LeBreton: Honourable senators, further to my last response, I was recently reading through a lot of the delayed answers and written responses that I had provided, and I believe

there was a response. I was reading through these last week, and it might have been a response we had given to Senator Hubley quite some time ago, but I will check and add this further query to the question and take it as notice.

NATIONAL DEFENCE

F-35 AIRCRAFT PURCHASE

Hon. Wilfred P. Moore: Honourable senators, my question is also for the Leader of the Government in the Senate. It was revealed yesterday that the government did not follow normal procurement procedures for the joint strike fighter purchase. In fact, we also learned that the F-35 does not meet Canada's operational requirements.

The Prime Minister and Minister of National Defence have continuously stated that the F-35 is the only plane that meets Canada's requirements, and that is the reason for not holding a competition.

Honourable senators, in light of this development, can the Leader of the Government now indicate that, in order to follow the proper legal and military procurement rules, this government will now hold the competition and ensure that the right plane is purchased that meets Canada's requirements?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, there is all kinds of media speculation about what was and was not done with regard to the F-35.

As I have indicated in the past, Canada has been a partner in the F-35 program for 15 years now.

Our plan is to continue in the program but, as I indicated last week, we have not signed a contract for a purchase. We have the flexibility we need to operate within the budget that we set out, and ultimately we will ensure, at the end of the day, that the air force has the aircraft it needs to do the job we ask of them. There is nothing more, honourable senators, that I will add to that today. That is the situation as it presently stands.

Senator Moore: On a supplementary question, on April 8, 2011, in the middle of an election campaign, the leader of the Conservative Party said this:

A lot of the developmental costs you're reading in the United States, the contract we've signed shelters us from any increase in those kinds of costs. We're very confident of our cost estimates and we have built in some latitude, some contingency in any case. So we are very confident we are within those measures.

We now know this is completely untrue.

Not only is there no guarantee that shelters Canadians from rising developmental costs, but there is no such contract.

Honourable senators, this is clearly an issue of credibility. When the Prime Minister of Canada cannot be trusted to speak the truth regarding the F-35s, how are we to believe the previous answer regarding Canada's requirements?

Senator LeBreton: Honourable senators, I indicated when I responded to Senator Moore a moment ago that I cannot add anything more to what I said in my previous answer. Obviously Canada has, as I pointed out, been a partner in the development of this aircraft for 15 years. There are many Canadian companies participating in the development of this aircraft: Many hundreds of millions of dollars have flowed into these Canadian companies and the development of this aircraft.

I can only say that, at the moment, our plans are to continue in this program. Obviously we have a budget, and we will operate within it. As I mentioned a moment ago, our ultimate aim is to provide our Royal Canadian Air Force personnel with the best possible equipment to do the job we ask of them.

Senator Moore: I am not clear, is there a contract or is there not? The Prime Minister, the leader of the Conservative Party, said there was and now we find out there is not.

Costs are rolling and Canada is now concerned about the total budget. Not only that, but we are also concerned about whether this airplane meets operational requirements.

The leader mentioned jobs. I would ask the minister to please table a copy of every contract awarded to a Canadian company or supplier under this F-35 program.

Senator LeBreton: There was an agreement signed by the previous government to participate in the development of this aircraft. I cannot add anything more than that, honourable senators. The answer I gave a moment ago is the only answer that I am prepared to give today.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the answer to the oral question asked by the Honourable Senator Downe on February 28, 2012, concerning the commemoration of historical events.

CANADIAN HERITAGE

COMMEMORATION OF HISTORICAL EVENTS

(Response to question raised by Hon. Percy E. Downe on February 28, 2012)

The Government of Canada has no plans to commemorate General Wolfe's victory on the Plains of Abraham. The Government's national commemoration policy stipulates that anniversaries of national significance will be commemorated in milestone years of 25, 50 and subsequent 25 year intervals. 2012 marks the 253rd anniversary of his victory.

The Government of Canada is in discussion with the Government of Prince Edward Island on areas of mutual interest related to the 150th anniversary of the Charlottetown Conference.

ANSWER TO ORDER PAPER QUESTION TABLED

VETERANS AFFAIRS—CONSEQUENCES OF DEFICIT REDUCTION ON MINISTRY BUDGET

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 36 on the Order Paper—by Senator Downe.

• (1500)

[English]

ORDERS OF THE DAY

APPROPRIATION BILL NO. 4, 2011-12

SECOND READING

Hon. Richard Neufeld moved second reading of Bill C-34, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2012.

He said: Honourable senators, the bill before you today, Appropriation Act No. 4, 2011-12 provides for the release of supply for Supplementary Estimates (C) 2011-12 and now seeks Parliament's approval to spend \$1.2 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance in his June 2011 Budget.

Supplementary Estimates (C) were tabled in the Senate on February 28, 2012, and referred to the Standing Senate Committee on National Finance. These are the third and final supplementary estimates for the fiscal year that ends on March 31, 2012.

The first supplementary estimates, Supplementary Estimates (A), were approved in June 2011. The second supplementary estimates, Supplementary Estimates (B), were approved in December 2011. Supplementary Estimates (C) 2011-12 reflect a decrease of \$0.4 billion in budgetary spending, which consists of \$1.2 billion in voted appropriations and a decrease of \$1.6 billion in statutory spending.

The \$1.2 billion in voted appropriations requires the approval of Parliament and includes major budgetary items such as \$353.4 million for the Gas Tax Fund to support environmentally sustainable municipal infrastructure projects that contribute to cleaner air, cleaner water and reduced greenhouse gas emissions; \$381.5 million for Canada's fast-start finance commitments under the Copenhagen Accord, which support climate change adaptation and mitigation in developing countries; \$162.2 million for the writeoff of debts owed to the Crown for unrecoverable Canada student loans; \$151.9 million in support of Canada's new training mission in Afghanistan; \$100 million for additional grants to international organizations for development assistance, food aid

and education; \$95 million to meet operational requirements of nuclear laboratories such as ensuring continued isotope production and health and safety upgrades; \$70.4 million for Canada's response to the humanitarian crisis in Eastern Africa resulting from the prolonged drought in the region; \$59.7 million to realign operating resources following a review of Employment Insurance administrative cost allocation; \$54 million for an increase in non-discretionary expenses, fit-up, maintenance and temporary accommodation associated with Crown-owned buildings and leased space.

These supplementary estimates also include a decrease of \$1.6 billion in budgetary statutory spending that has been previously authorized by Parliament. Adjustments to projected statutory spending are provided for information purposes only and are mainly attributable to the following forecast changes: \$232.9 million for expenses of elections; \$74.4 million increase to Canada study grants payments due to higher than anticipated statutory payments and in accordance with revised growth rate projections by the chief actuary; a decrease of \$311.7 million in a revised forecast for Old Age Security and Guaranteed Income Supplement benefit payments; a decrease of \$415.8 million in a revised forecast of payments to the Newfoundland Offshore Petroleum Resource Revenue Fund; a decrease of \$1.448 million following a revision to the forecast of public debt.

Supplementary Estimates (C) 2011-12 also reflect an increase of \$0.2 billion in non-budgetary statutory spending, primarily due to \$157.4 million in net loans disbursed under the Canada Student Financial Assistance Act as a result of higher new loan projections made by the chief actuary offset by higher than anticipated loan repayments.

Appropriation Bill No. 4, 2011-12 seeks Parliament's approval to spend a total of \$1.2 billion in voted expenditures. Honourable senators, should you require additional information, I would be pleased to try and provide it.

Hon. Joseph A. Day: Honourable senators, I am pleased to join Senator Neufeld, Deputy Chair of the National Finance Committee, in debate on Bill C-34.

Although Senator Neufeld described statutory expenditures, statutory expenditures do not appear in Bill C-34. This bill is only asking you to consider Schedules 1 and 2 to it, which are voted appropriations. Those are items for which this chamber and the other place must authorize the executive before any expenditures can be made out of the Consolidated Revenue Fund of Canada.

Honourable senators, the first step in this process is to look at the supplementary estimates we have been studying in the Standing Senate Committee on National Finance. The supplementary estimates are outlined in some detail, the various votes that must take place with it as well as each department. It also outlines for information purposes the statutory expenditure anticipated, the estimated expenditures in statutory expenditures, in this instance, for Supplementary Estimates (C), for the balance of this particular fiscal year.

As a result of that study, the Standing Senate Committee on National Finance prepared a report. That report on Supplementary Estimates (C) and the report that follows that, honourable senators,

is the report that we debated at the last sitting of this chamber. I commend you this report. It outlines in some detail the work of the committee in relation to the various witnesses that we had before us.

As Senator Neufeld has indicated, the voted appropriation portion for Supplementary Estimates (C) and the supply bill that flows from that is \$1.2 billion.

Honourable senators, that is the report that has been voted on in this chamber and adopted. What I typically do to assist you is to check the two schedules that are attached to this particular supply bill, Appropriation Bill C-34, and I confirm that I have found that the schedules appear to be identical to those we studied in our Finance Committee when we studied the supplementary estimates.

That being said, honourable senators, we have, in effect, done what might be compared to a pre-study of this particular supply bill. I would suggest to you that it would not be inappropriate for us, once second reading is concluded, to not follow our procedure that we follow with respect to other bills where we send the bill after second reading to committee for consideration; rather, we could follow the procedure that we have adopted in this chamber of proceeding to third reading, provided that the committee has had an opportunity to look at the supplementary estimates and to report to you so that you have some knowledge, some background upon which to base your movement to deal with the bill at third reading.

Honourable senators, I commend the report to you, and I find the schedules to be reflective of that which we have studied. Again, honourable senators, we are being asked to approve final expenditures for this fiscal year of \$1.2 billion.

Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker):

Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to, bill read second time.)

• (1510)

The Hon. the Acting Speaker: When shall this bill be read the third time?

(On motion of Senator Neufeld, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

APPROPRIATION BILL NO. 1, 2012-13

SECOND READING

Hon. Richard Neufeld moved second reading of Bill C-35, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2013.

He said: Honourable senators, the bill before you today, Appropriation Act No. 1, 2012-13, provides for the release of interim supply for the 2012-13 Main Estimates that were referred to the Senate on February 28, 2012.

The government submits estimates to Parliament in support of its request for authority to spend public funds. Main Estimates include information on both budgetary and non-budgetary spending authorities, and Parliament subsequently considers appropriation bills to authorize the spending.

The \$251.9 billion in budgetary expenditures includes the cost of servicing the public debt; operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations. These Main Estimates support the government's request for Parliament's authority to spend \$91.9 billion under the program authorities that require Parliament's annual approval of their spending limits. The remaining \$160 billion is for statutory items previously approved by Parliament and the detailed forecasts are provided for information purposes only.

Together, the budgetary and non-budgetary voted spending authorities equal \$91.9 billion, of which \$26.6 billion is sought through Appropriation Act No. 1.

Honourable senators, should you require additional information, I would be pleased to try to provide it.

Hon. Joseph A. Day: Honourable senators, you have before you Bill C-35. We are now at second reading of this bill, and it does indeed request that at this stage we vote appropriation in the amount of \$26.5 billion. That is to carry the government through to the end of June. The reason for that, honourable senators, is that it is appropriate for Parliament to have oversight of government's requests and proposals for expenditure. As we just received the estimates some time ago, it is important for us to have an opportunity to study them. We have, in fact, begun our study of these particular estimates and earlier today I filed the eighth report of our committee — with which I hope to deal later this day, honourable senators — which will help to explain what is in these estimates. That is the reason that we had an opportunity to study these estimates, so that we can report back to honourable senators with a report, table the report and give an opportunity to understand what is in here.

This is an interim report that we will be providing at this stage. We will continue our study of the Main Estimates throughout the year, and we anticipate that we will be filing another report before the end of June so that honourable senators will have an opportunity to understand what is in these Main Estimates before we vote on full supply for the rest of the year.

However, it is also anticipated, honourable senators, that Supplementary Estimates (A), Supplementary Estimates (B) and Supplementary Estimates (C) will be filed. The three of those, together with the Main Estimates, will give an appreciation of what the government estimates it needs to run the government and the country for the coming fiscal year. We anticipate that we will receive Supplementary Estimates (A) sometime in June.

It is important for honourable senators to understand that the estimates that we are dealing with in this supply bill and the interim supply that we are voting on do not reflect the budget that honourable senators will become more familiar with as of Thursday of this week. The budget is not reflected, because these estimates were prepared before the government's intention with respect to the budget had been made known. That is why we need the supplementary estimates. Supplementary estimates will begin to reflect the government policy that is in the budget.

In these Main Estimates, we find some of the initiatives announced in last year's budget, and we were able to look at those with Treasury Board and the other departments so that we had an understanding of what was happening and why expenditures were increasing.

It is important to take these two documents together, honourable senators. You have already indicated that we can do so, and it is on the Order Paper. In anticipation of dealing with the report of our committee, I believe it would be appropriate for us to allow this bill, like the previous bill, to go to third reading rather than to be sent to committee for study because the study has been done. Honourable senators just have not yet had an opportunity to hear about the report.

Hon. Anne C. Cools: Is this interim supply?

Senator Day: This is interim supply to the end of June, for the fiscal year beginning April 1.

Hon. Terry M. Mercer: Would the honourable senator take a question?

Senator Day: I would be pleased to.

Senator Mercer: Honourable senators can anticipate my question.

Senator Day indicated that we would be getting Supplementary Estimates (A) in June. Now, this will have to be passed by the end of June to allow things to proceed if we are not here in July and August. Am I correct?

Senator Day: I indicated that I anticipate that that will be the case. It is, of course, the government's decision as to when to bring forward an estimate, but all indications are that there will be some initiatives in the budget that may be reflected in Supplementary Estimates (A) or possibly (B), which comes after the summer break.

Senator Mercer: As honourable senators have heard me say here before, we continue to get these bills from the other place that are extremely important, with an inordinate amount of detail, and then we are asked to pass them in a very short order of time. I would hope that both Senator Day and Senator Neufeld are telling officials that we would like them in a little more timely fashion, so that we could have the proper time to allow our excellent committee to do the work that it does and so that we can all feel comfortable that we have all the knowledge we will need when we are asked to consider billions and billions of dollars.

Senator Day: I would like to thank Senator Mercer for that comment. It is a comment and a feeling that I share with him. It is very important that we obtain the documents that we are expected to review and provide intellectual comment on as quickly as possible.

Just so that honourable senators are aware, before the end of June we also anticipate a budget implementation bill that will be reflective of some of the initiatives in the budget that have to be implemented quickly. I would hope that we would have the opportunity to either receive that bill early or, alternatively, have an opportunity to pre-study the bill so that we can be ready to deal with it.

• (1520)

While I am saying that, it is important to compliment and thank the other members of my committee, as well as Senator Neufeld, our deputy chair, for their cooperation in understanding the urgency of wanting to do the job expected of us to review this documentation. As I mentioned to honourable senators previously, the House of Commons Standing Committee on Finance is going through a review at the present time because they do not believe that they are providing proper scrutiny. They have heard our comments on many occasions, and they want to explore ways that they might be able to provide more oversight and scrutiny in relation to this particular process of supply. One of the suggestions is to back up the budget to another time before Christmas, for example, which would allow for the estimates to be reflective of the estimates.

The Hon. the Acting Speaker: Are honourable senators ready for the question?

An Hon. Senator: Question.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Neufeld, bill placed on Orders of the Day for third reading at the next sitting of the Senate.)

THE ESTIMATES, 2012-13

MAIN ESTIMATES—EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (interim) of the Standing Senate Committee on National Finance (2012-2013 Main Estimates) tabled earlier this day.

Hon. Joseph A. Day: Honourable senators, this is my final appearance before you this afternoon.

An Hon. Senator: Oh, no!

An Hon. Senator: Say it is not so.

Senator Day: But I will be back in June.

Senator Carignan: Another day.

Senator Day: Honourable senators, this is the report that I made reference to when we were talking about the appropriations bill, C-35. This is the first interim report on the Main Estimates that has been presented and delivered to each honourable senator. I apologize for the fact that honourable senators have only just received it, but these are ongoing matters. It is an interim report. If there are items in this report that honourable senators wish to bring to the attention of this chamber or to our Standing Senate Committee on National Finance for future consideration as we continue our study of these Main Estimates, we would be very pleased to hear about them.

This is our first interim report on the Main Estimates for fiscal year 2012-13. Honourable senators will know from the debate we have already had that the overall estimates we are looking for, at this stage, are net voted appropriations of \$91.9 billion. There are also statutory expenditures outlined in this particular Main Estimates. The statutory expenditures are those expenditures that we have voted on as part of a separate bill and we have given authority in the bill to spend funds. Therefore, we do not have to vote on those again, but they are in here so that we understand them and the overall picture.

The net statutory appropriations for the coming year, at this stage, are \$160 billion. Honourable senators can see it runs roughly two-to-one in terms of statutory and voted. The total voted and non-voted, or statutory, appropriations for the fiscal year that begins April 1 amount to \$251.9 billion. That compares to last year, which was \$250.8 billion. To reiterate: It is \$251.9 billion compared to \$250.8 billion, which means \$1.1 billion more is forecast to be spent this year than in the previous year.

Senator Mercer: Big spenders, these guys.

Senator Mitchell: I thought they were going to cut.

Senator Day: It is expected, honourable senators, that we will be seeing Supplementary Estimates (A), (B) and (C). What is in those supplementary estimates we will see at that time, but that will have to be added to the particular document.

Honourable senators, as soon as the document was referred to us, we met with nine federal departments and agencies to discuss their requests for appropriations for the coming fiscal year. The list of departments that we met with includes: Treasury Board of Canada Secretariat, Aboriginal Affairs and Northern Development Canada, Natural Resources Canada, Canadian Heritage, Correctional Service of Canada, Human Resources and Skills Development Canada, Canada Mortgage and Housing Corporation, Public Works and Government Services Canada, and the final one — the one I would like to talk a little bit about — Shared Services Canada.

Honourable senators can see that we met a good cross-section of departmental witnesses in our first look at these Main Estimates for the coming year and for our interim report. We discovered a number of things that we want to pursue further, and we can do that because we have the mandate throughout the year to study these particular documents.

Honourable senators, the department I wanted to talk about is Shared Services Canada, a new department. It was created in August 2011 as an independent department with an eight-year mandate to rationalize the government's information technology services, to reduce overlap, and to modernize service delivery to Canadians while making the government's information technology infrastructure more secure.

In part, it is described as an effort to save money. That will be over the long term because, for the first year, the department is asking for \$1.4 billion. In effect, that money is being transferred from a number of other departments. To date, 6,300 employees from 40 different departments and agencies within the Government of Canada have been transferred to Shared Services Canada.

Honourable senators, we will want to keep a very close watch on this new initiative. We cannot indicate that all of the activity it is planning is being conducted to save funds or to make things more efficient because it is only just under way. However, we generally support this worthwhile initiative.

Having said that, it is important to remember something when we review the various departments. A department will come in and say that their budget is less than last year. However, a budget will be less because a piece of it has been moved over to this new department, Shared Services Canada. When it is all added up, the bottom line is the same; it is just that it is put in different places. We were conscious of that, honourable senators, in our deliberations. We will be conscious of that as we proceed.

• (1530)

Treasury Board Secretariat was very helpful, as they always are, in outlining the major expenditures and the major highlights. Senator Neufeld touched on a number of the major highlights earlier on, so I will not need to go through those.

I want to tell you that Indian and Northern Affairs will, in due course, become known as Aboriginal Affairs and Northern Development. That is the new name, but it has not been reflected in legislation as of yet. We still talk in terms of Indian and Northern Affairs Canada, but Aboriginal Affairs and Northern Development will be the new name.

We had quite a discussion about that particular department. There is some sunseting of funding for what appeared to be worthwhile projects, such as the First Nations Water and Wastewater Action Plan. Sunseting a program like that does not mean we will never see it again; it just means that it has not been renewed until now and it might be in the budget coming out on Thursday. As of now, and that is all I can speak for, that has sunsetted. There is a reduction of \$159 million in the budget at

this time because that program has sunsetted, meaning it was intended to last until 31 March 2012 and it has not been extended.

That is one of the ones we were interested in knowing about, and we will be watching the budget in that regard because there are a number of important initiatives to help our Aboriginal communities.

Honourable senators, there are a number of expenditures for settlement of Indian residential schools and a number of land claim settlements. They are all in this document. Some are statutory, some are voted, but they are all in there, and we had a chance to look at them.

We were reminded that the rate of growth of the Aboriginal population is almost double that of the rate of growth of the Canadian population as a whole. That trend suggests that in 15 to 20 years there will be more than 1.5 million Aboriginal persons in Canada under the age of 25 years. There is an extremely important initiative to ensure that those individuals become productive members of our society. That is something we must not overlook. To put a positive spin on all of this, if we are able to achieve that and have that group that will be coming up become productive members of society, they could contribute to the gross domestic product in the amount of over \$400 billion over the next 20 years. If graduation rates and employment rates among Aboriginal peoples reach the level of just the non-Aboriginal population in Canada, that would be a wonderful initiative and one that we should be working on, honourable senators.

The total amount that we are now on an annual basis in estimates — and there may be some ups and downs on this, but not likely to be down — is approximately \$11 billion a year that is applied to the Aboriginal file — \$11 billion a year for Aboriginal peoples living in Canada. Honourable senators, that is a huge number. We must bring this matter under proper control, and it is deserving of our attention.

The next item that I could talk about is Natural Resources Canada. There is a decrease there of \$712 million. This net decrease in budgetary expenditures of \$712 million includes a decrease of \$549 million related to sunseting of a number of programs. I am hopeful that we will see some of them reinstated. Pulp and paper, green transmission program, ecoENERGY Technology Initiative, ecoENERGY for Biofuels incentive for producers and a decrease of \$21.9 billion in isotope supply initiatives — all of these have sunsetted. They will disappear.

Many of the initiatives that we were hoping would lead us into the next generation will not be there to assist initiatives.

On CANDU reactors, AECL is responsible for all of the obligations created before SNC-Lavalin took over. We can expect for a good number of years to be seeing appropriations in that regard; \$274 million appears in this particular supplementary estimates, and that will continue even though the AECL entity and all the technology has been sold and transferred to SNC-Lavalin.

I think those are the main highlights I wanted to bring to the attention of honourable senators. There is an \$8.5-million grant plus another \$4.5-million contribution to TV5 for French

broadcasting. I thought that was important for us to highlight because of the focus on English broadcasting. It is important that we understand that TV5 is a very important and popular channel, and Canada is doing its part, along with many other countries in the world, in French broadcasting.

Correctional Service Canada, very briefly, indicated that they did not anticipate hiring the 4,000 new staff that they had originally expected, but they did have a request in here for an additional \$175 million in the Main Estimates to manage the expected increase in inmate populations as a result of implementing the Truth in Sentencing Act and Tackling Violent Crime Act. That is \$175 million more.

Senator Mercer: The crime rate is going down and they are spending more money.

Senator Day: The cost per inmate is estimated to be \$114,000 per year.

Honourable senators, there are a number of other points in this report that I would like you to be aware of. My colleague Senator Neufeld will bring to your attention a number of others. I will commend the report to your reading and ask that you support it when the vote is called.

[Translation]

The Hon. the Acting Speaker: Is Senator Day moving the adoption of the report?

Senator Day: Honourable senators, may I request an additional five minutes to answer questions?

The Hon. the Acting Speaker: Is it agreed, honourable senators, that Senator Day will have five more minutes?

Hon. Senators: Agreed.

[English]

Hon. Wilfred P. Moore: Honourable senators, on page 13, Canada Mortgage and Housing Corporation, the last line in that section says that departmental officials promise to provide more information in order to answer senators' questions. Have the questions that were raised at committee by you, Senator Neufeld or other members been answered so that you are satisfied that we are now able to vote on this in a learned way?

Senator Day: I thank the senator for the question. We have not received the answer from Canada Mortgage and Housing Corporation yet, but I remind honourable senators that this is just interim supply. They will be back in two months asking us for more money and we will be following up at that time. If we have not received the answers by that time, we would be less inclined to give them full supply.

• (1540)

Senator Moore: Honourable senators, what happens come June if we get the same answer? Will we then be under the gun to extend more money without having the detailed answers to support the request?

Senator Day: Thank you for the question. The answer is yes. That is why it is very important for us to follow up on these questions and to ensure that we do have an answer before we are back here again in June on those various outstanding issues. That is not the only place in this report where we have said that; there are a number of them. The reason is that we are rushed a bit in trying to get these reports done. The departments are a little slower in getting the requested information to us, but this is an ongoing matter. We continue to be seized of the matter, which will allow us to follow up and provide the answers so we can vote intelligently on full supply.

It has been brought to my attention that I have overlooked asking that the chamber adopt this motion. Might I revert to the front of my speech to ask that very question?

Honourable senators, I move the adoption of this report.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: On debate.

Hon. Grant Mitchell: Honourable senators, I note on the bottom of page 4 of the report that the committee looked at the projected reduction of \$1.4 billion in the cost of servicing the public debt. The cost would be almost \$29 billion. It seems counterintuitive and contrary to certain expectations of interest rate movement that anyone would anticipate that the debt cost would actually go down. The Governor of the Bank of Canada is suggesting that, if anything, interest rates will go up. In fact, recent figures on inflation would suggest there is pressure that would confirm his concern in that regard.

[Translation]

Can you explain why the government is expecting a reduction in its costs?

Senator Day: It is difficult for me to explain the government's reasons, but we did ask that question. In the past, the government put forward an amount that was higher than necessary, based on the interest rate. This year, they are more comfortable with the amount, but we can change the amount at any time, if need be.

For example, if the interest rate were to increase, the government would have to ask for a larger amount in the supplementary estimates to cover the interest expense.

The Hon. the Acting Speaker: Senator Day's time has expired. Does Senator Moore wish to participate in the debate or does he have a question?

[English]

Senator Moore: On debate, I want to make the point that I am concerned about not having some of these answers. I think a message should be sent to the delinquent people at the departments regarding the questions that have been given, that although the Senate cannot add taxation we can certainly decrease money bills. They should know that unless they give

full and proper answers, we are prepared to do that. I think the committee should go back to these departments and urge them to provide the answers in a timely way.

[Translation]

The Hon. the Acting Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[English]

PURPLE DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Terry M. Mercer moved second reading of Bill C-278, An Act respecting a day to increase public awareness about epilepsy.

He said: Honourable senators, it is a pleasure to rise today in support of Bill C-278, An Act respecting a day to increase public awareness of epilepsy — or, simply, the Purple Day Bill — at second reading. This bill was introduced in the other place by my friend and honourable colleague Geoff Regan, the Member of Parliament for Halifax West. The purpose of the bill is simple, but its effect will be widespread. As the bill states, people are encouraged to wear the colour purple to indicate support for people with epilepsy and to increase public awareness of this disorder every year on March 26. That, of course, was yesterday, but as you can see, I am wearing my purple ribbon today and have more if you would like to wear one, and I encourage you to do so.

I am sure, honourable senators, that you know someone who suffers from epilepsy. Epilepsy is a seizure disorder but not a disease. Seizures occur as a result of a sudden excessive electrical discharge in the brain. In fact, about one in ten people will experience at least one seizure during their lifetime.

Purple Day was founded in 2008 by then nine-year-old Cassidy Megan, who also happens to be a constituent of Mr. Regan, and she suffered her first attack at the age of seven. While learning what was happening to her, she decided that not enough people knew exactly what epilepsy was and so she decided to start Purple Day; pretty impressive for a young lady like that. It has grown internationally since then.

Why purple? The international colour for epilepsy is lavender. If you go to the Purple Day website, it will tell you that the lavender flower is often associated with solitude, which is representative of the feelings of isolation many people affected by epilepsy and seizure disorders often feel.

Honourable senators, epilepsy is one of the most common chronic neurological disorders, affecting an estimated 50 million people. Here are a few people in history who had epilepsy: Julius

Caesar, Alexander the Great, Agatha Christie, Socrates, Joan of Arc, Richard Burton, Alfred Nobel, Muhammad, Thomas Edison, Napoleon Bonaparte, Vincent van Gogh and Charles Dickens.

There are a lot of heavyweights in that list of people. Then there is my friend Matt, in Halifax, who turned 30 the other day and who has been living with epilepsy for a long time. He is doing fine.

• (1550)

I would like to thank my colleague Geoff Regan for introducing and shepherding this bill through the other place. I also would like to congratulate Cassidy for such a great campaign to increase awareness of a disorder that can affect anyone. It goes to show that something as small as an idea can grow into something so huge and meaningful. I encourage all honourable senators to support this bill.

(On motion of Senator Carignan, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Committee on Internal Economy, Budgets and Administration (*economic increases and severance pay for unrepresented staff of the Senate*), presented in the Senate on March 15, 2012.

Hon. David Tkachuk moved the adoption of the report.

He said: Honourable senators, in October 2011 the Internal Economy Committee approved economic increases and the cessation of severance accumulation for the administration management staff. This was the result of Treasury Board's notice of changes to the executive level compensation for senior management. As well, Treasury Board has signaled in the past its intention to align severance benefits for voluntary departures with employee practices within Canada. Most recently, the House of Commons has informed its unrepresented employees that economic increases have been approved from 2011 to 2013 by their Board of Internal Economy and that the accumulation of severance pay for voluntary departures will cease as of March 31, 2012.

The report before honourable senators approves economic increases for unrepresented employees, including senators' staff and the administration. It is important to note that this does not impact severance benefits for involuntary departures, which remain the same. Voluntary departures occur when a staff or employee retires or resigns from the Senate. In these cases, unrepresented employees would no longer accumulate these benefits.

As well, the Senate is currently in the process of collective bargaining with three unionized groups, and any other changes to the terms and conditions of employment for unrepresented

employees will be considered only once bargaining is completed. Should the economic increases be approved for unrepresented employees, they will be effective April 1, 2011, for senators' staff and October 1, 2011, for the administration.

I thank honourable senators for their consideration and ask that they approve the eighth report of the Standing Committee on Internal Economy, Budgets and Administration.

Hon. Wilfred P. Moore: Honourable senators, the report states, "retroactive to April 1, 2011." Will that retroactivity impact many people?

Senator Tkachuk: It will impact non-unionized staff and senators' office staff. That is in keeping and parallel with the negotiations taking place with unionized staff in the three union groups currently bargaining.

Hon. Mac Harb: Could Senator Tkachuk clarify if economic increases for senators' staff would come from the existing envelope of each senator or would there be an increase in that envelope?

Senator Tkachuk: As the honourable senator knows, we have tried to keep senators' office budgets frozen at their present levels. They will continue to remain so except for the top-ups that will occur when salary increases take effect for staff members. It is important that this report be passed before the end of the fiscal year. We have the money in the budget and those increases will be reflected by a topping up of senators' office budgets so they can pay their staff.

Hon. Terry M. Mercer: With respect to the severance provision of the report, many long-term employees have probably planned for that severance in their retirement plans. We all have some very good employees, as Senator Tkachuk and I have, who have been here for some time. Have we thought about how we will address that from the point of view of the employees who are unrepresented and do not have a union to represent them? How will we put the argument before the board in any formal way? It would seem that this will change what future retirement may look like for some of these people.

Senator Tkachuk: It will change only for those who voluntarily leave. We had a strange situation whereby people would receive severance for retiring, which is sort of not the point of severance. It will not affect everyone else and so I do not think senators' staff has much to be concerned about. They will be able to deal with members of the administration or human resources to figure out the best avenue for them. It is not that we are taking away something they have already earned; it is just stopping the accumulation in the future.

Senator Moore: To follow up on Senator Harb's question, is the top-up sufficient to cover any step increases that are provided for in the suggested memo we received from the Human Resources Directorate?

Senator Tkachuk: The step increases are within senators' budgets.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIRST REPORT OF COMMITTEE—POINT OF ORDER—SPEAKER'S RULING RESERVED

On the Order:

Resuming debate on the motion of the Honourable Senator Smith P.C. (*Cobourg*), seconded by the Honourable Senator Cordy, for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*Revised Rules of the Senate*), presented in the Senate on November 16, 2011.

Hon. Anne C. Cools: Honourable senators, I rise on a point of order regarding the First Report of the Standing Senate Committee on Rules, Procedures and the Rights of Parliament presented here on November 16, 2011, and currently before us in respect of proposed recommendations to the Senate for rule changes. I assert that this report is irregular and out of order as it is contrary to well-established Senate and Senate committee practices and procedures for recommending rule changes. I submit that these irregularities are major and in three distinct areas.

First, the report exceeds the scope and mandate authorized by rule 86(1)(d)(i), on which the committee depends for these rule changes.

Second, the report purports, most improperly, to impose closure on Senate debate, and orders a date for the coming into force of the new rules.

Third, contrary to well-established Senate practice, the committee's recommended rule changes are not part of and are not included in this report. They are contained in a separate document, alien to the report, named an appendix.

• (1600)

This appendix, because of the nature of this motion and of this form of proceeding presently before us, is procedurally incapable of and precluded from putting the proposed rule changes before the Senate for consideration and debate.

These three distinct sets of irregularities are major and organic and are so compelling as to demand that the prosecution of this proceeding be arrested forthwith.

I submit that the report before us is defective and irregular and is inadmissible for our consideration, debate and vote here. I ask His Honour to rule the report out of order on these grounds.

Honourable senators, first I wish to acknowledge the subcommittee and its three members, Senator Carignan, Senator Stratton, and Senator Fraser, the chair.

I thank them for their labours and their hard work. I commend their efforts. I laud them and accord them all that they should be accorded and more. At the same time, I maintain and uphold our duty as senators to subject their findings and conclusions to our careful and diligent examination and to uphold the rules, rights and privileges of this house. It is in light of this responsibility, shared by every individual senator, that I feel bound to call attention to these three procedural breaches of this report.

Honourable senators, I shall move to the first breach. This report exceeds the scope of mandate authorized by rule 86(1)(d)(i), the rule on which this committee depends for authority to present this report to the senators and the Senate for consideration. By this rule, our Committee on Rules, Procedures and the Rights of Parliament is empowered:

... on its own initiative to propose, from time to time, amendments to the rules for consideration by the Senate;

Our Senate rules are the tools, the mechanics by which we actuate and exercise our privileges. Rule 86(1)(d)(i) was born of the Senate's notion that our rules are our privileges and that we should hold them jealously and closely and keep them under constant study. This rule intended an enlarged role for senators in rule changes, not a shrunken or reduced one.

Honourable senators, this rule grants a limited power to the committee to initiate rule changes in close concert with senators. It does not intend nor contemplate such voluminous and massive change as the total repeal of the status quo. A total repeal is not an amendment, and no amendment can negate the whole of that which it amends. These proposed rule changes — 174 pages of them — are the single largest, most voluminous changes to our Senate rules ever, in 145 years. It would repeal in one massive 174-page fell swoop the entire rule book *in toto* and replace it with a new one, by one sentence in the report and one motion.

This one-shot bulk approach, this total repeal, this total reframing and recasting of the rules is not, even to the widely imaginative, "amendments from time to time."

Honourable senators, the subcommittee was first created on April 13, 2010, following debate on concerns that I raised about the legal and parliamentary probity of a small, self-selected group of senators and selected staff meeting privately, without Senate authority and with no record, yet with a stated intention to use this rule to bring their proposals to the Senate. Vital to that debate was the necessity of the subcommittee's records of its deliberations. I had questioned the committee's persistent use of in camera meetings and its routine and undesirable use of secrecy. That day, I agreed; I voted to constitute a subcommittee whose mandate was limited to changes of a grammatical nature and of clarity, with a much needed focus on harmonizing the English and French versions.

The subcommittee received no power and no authority to touch the substance or content of the rules, as it clearly has. I support the undoubted linguistic fact that the French and English versions of our rules must be harmonized. This, by itself, is a huge undertaking and a worthy one, but the subcommittee, without authority, chose to extend its reach beyond its mandate and waded into deep waters, making a good many substantive and major changes, including some to our ancient privileges granted by the British North America Act, 1867, section 18.

The consequence is that the report exceeds the mandate of the committee and is, therefore, out of order.

Honourable senators, I turn now to the report's second breach of order. A committee is a creature of the Senate, and, as such, it has no powers other than those expressly delegated to it by the Senate. The first recommendation reads as follows:

That the existing *Rules of the Senate* be replaced by the revised *Rules of the Senate* contained in the First Appendix to this report, including the associated appendices to the Rules, effective from September 1, 2012;

Honourable senators, by imposing an end date for adoption, expressed as the date for the coming into force of the revised rules, the committee, in practical terms, has given an instruction to the Senate limiting debate and imposing a form of closure. This exceeds the powers delegated to it by the Senate. The proper procedures for imposing time limits on debate are clearly stated in our rules 38, 39 and 40. The Senate has never delegated to any of its committees any power to limit debate here in the Senate. It is most improper for a committee to impose a deadline on a Senate proceeding.

The established practice for adopting rule changes in this house is that they either come into effect by a separate resolution of the Senate, as was the case when significant changes were made in 1906 and 1968, or upon adoption of the motion that seeks to amend the rules itself.

For example, in the 1991 rule changes, recommendation 19 of the then Rules Committee report stated:

That changes in the *Rules of the Senate*, contained in this Report of the Standing Committee on Standing Rules and Orders, come into force when the Senate next meets after the adoption of this report by the Senate.

Honourable senators, the Senate is not subject or subordinate to the authority of its committees. A recommendation in this report dictating a specific date by which the revised rules should come into force is irregular and, in itself, is grounds for the report to be ruled out of order.

I come now, honourable senators, to the third, and by far the most important, profound and far-reaching breach.

This report does not contain the substantive matter that is the subject and purpose of the report, specifically, the text of its proposed rule changes.

Instead, the substantive portion of the report is found in what has been styled the first appendix to the report. This motion to adopt the report does not put the actual recommended rule changes before us for debate. That is a very serious matter. Simply put, we cannot debate the proposed rule changes because they are not part of or included in the report that this motion asks us to adopt.

This report, by its form of proceeding, has placed its substantive matter, the actual proposed rule changes, beyond the procedural ability of senators to consider, debate, amend and vote on the actual words, paragraph by paragraph, of the rule changes. It is, therefore, out of order.

Honourable senators, let us examine what a committee report is. Marleau and Montpetit, in their *House of Commons Procedure and Practice, First Edition*, tell us on page 879 that:

Committees make their views and recommendations known to the House by way of reports.

It is pretty clear. The report is the means to deliver, to present their recommendations to the house. That is what the report is. It comes out of an oral tradition where members would rise and make the report orally, presenting to senators.

A committee report is the form of proceeding by which Senate committees present or deliver their findings and recommendations to senators and the Senate. A report is structured as a cluster of clearly designated paragraphs *in seriatim*, often numbered, and clearly signed by the committee chair. Let us understand this, honourable senators. This entire system is a very profound one. A committee report is those words — those paragraphs — below the title “Report” and above the chair’s signature, which certifies that those words and those paragraphs are the committee’s words, the words seeking Senate adoption. Those words, in those paragraphs, and no other words in any other text, are the report. No other words over there in another document or over here or wherever are the report. It is within the pages of the report that we find the substantive questions or recommendations for which the committee is seeking the Senate’s acknowledgement and approval.

• (1610)

The report before us is a mere page and a half. Instead, the recommendations are to be found without the chairman’s signature in the first appendix, a mere 174 pages of recommended changes to the *Rules of the Senate*.

Honourable senators, most senators do not even realize that these recommended rule changes are 174 pages and that they are the single largest, in quantum and volume, amount of rule changes ever put before this house, and God knows I have reviewed endless Rules Committee reports in the last while.

Honourable senators, unlike a report, an appendix is not a “form of proceeding” that Senate committees use to put their hard laboured recommendations, their choice conclusions, before the Senate and senators for their judgment. The *Oxford Dictionary* defines “appendix” as:

An addition subjoined to a document or book, having some contributory value in connexion with the subject-matter of the work, but not essential to its completeness.

An appendix is of limited and narrow use. It is a subsidiary, a non-substantive piece deployed usually for information purposes only.

Honourable senators, no lawyer would put his most important arguments in an appendix to his main document. Why would he hide them?

An appendix is inconsequential and non-substantive to any decision or judgment that the house or any court is asked to make. In our experience in this chamber, an appendix usually contains information like lists of witnesses who appear before the committee or other factual information, but which is not central to the main purpose of the report itself.

House of Commons Standing Order 108(1)(a) is instructive. It permits a committee to print a brief appendix to any report with opinions and recommendations that dissent from or that supplement the report while it maintains and upholds the integrity of house procedure on committee reports by defining that such brief appendix is not part of the report. There were many problems with those issues some years back.

The Commons annotated Standing Orders, second edition, at page 387, state:

Such appendices are attached after the signature of the Chair, and do not form part of the report in a procedural sense.

Similarly, Senate rule 98 states, in part:

When any amendment to the bill has been recommended by the committee, such amendment shall be stated in the report.

No chairman will put amendments to a bill in the appendix to a committee report, but they do it in a committee report here on rule changes. Interesting, is it not.

Rule 98 specifically states “in the report,” honourable senators, not in an appendix to the report because an amendment to a bill is a substantive matter which requires the Senate to consider, debate, amend, reject or adopt specific words. They must be in the report.

Clearly, the wholesale replacement of the existing *Rules of the Senate* with these proposed revised rules should be more than an appendix, an afterthought placed not in its place, not quickly observed.

Honourable senators, the procedural problem is that the two-page report before us, signed by the chairman, does not contain a single paragraph, not a single word of the committee’s recommended rule changes, the proposed rule changes themselves. We cannot debate them. We cannot actuate and amend them because they are not before the Senate for actual debate and amendment, as is the report. This is a serious problem. In other words, any senator cannot rise and say, “I move to

amend the committee report by deleting these words and inserting those." The actual words of the rule changes are in the report. I shall show it to you. The report is a page and a half. I am informed that most senators do not even know that this is the case.

Here, last November 29, Senator Fraser indicated to us her mistaken belief that senators may debate and amend the text of the proposed rule changes. She said:

... the important thing is that the Senate itself ... must examine this work and decide whether it wants to adopt all of it, some elements of it or some of it amended.

Senator Fraser obviously believes that in this form of proceeding we can amend the report, but we cannot. Though reassuring that there is no sinister ploy at work here, Senator Fraser seems unaware that this proceeding permits no amendment to a single rule of the proposed rule changes and does not even put them before us.

Honourable senators, this first report deviates from long-established Senate practice and from the Rules Committee's own consistent practice, which has been that the report itself contains the actual text of its recommended rule changes, paragraph by paragraph and word by word. By this practice of inclusion in the report, the motion to adopt the report will adopt the proposed rule changes. There is a reason the customary practice is to include the rule changes within the text of the report, not appended as an appendix. Rules are fundamental to parliamentary practices and procedures and to the function of this chamber. The *Rules of the Senate* are not explanatory or supplementary. They are substantive in nature and do not belong in the appendix but in the main text, the main body of the report.

In other words, honourable senators, the committee masterpiece production should be before us for debate. The star of the show should be on the stage; do you not agree?

Honourable senators, as an example, the last major revision to the rules occurred in 1991. At that time, the report, presented by Senator Robertson, contained the text of every single proposed rule change, paragraph by paragraph: 36 pages of them structured and numbered as 19 recommendations, each one showing clearly every amendment made and proposed, all above her signature. I have a picture of it here to show honourable senators.

However, the 1991 changes were not the only example of the recommended rule changes being in the body of the report. I have reviewed the most significant rule changes in Senate history, be it 1991, 1975, 1972, 1968, 1915 or 1906. I went back to 1894. I have also examined 75 of our Rules Committee reports recommending rule changes to the Senate from the present, 2012, back to 1969; 68 of these 75 included the recommended rule changes in the report.

My 43-year review informs that our Senate Rules Committee's practice has been diligent to include the actual text of their recommended rule changes, paragraph by paragraph, in their committee reports, thereby putting them before senators for consideration.

Honourable senators, do not misunderstand; I am not being slavish in any way because I am going to give an example where recommendations were put in a different document. However, that document was moved directly before the house for senators' consideration. It is important to note, honourable senators, that in particular instances, such as in 1968 and 1906, where the substantive proposed rule changes were contained in a schedule or another paper different from the report, that schedule or paper was referred to Committee of the Whole, thereby putting the substantive matter of these separate documents directly before the house for consideration.

• (1620)

Some of us remember Senator Molson. On December 10, 1968, Senator Molson, an independent senator and Chairman of the Special Committee, moved:

... that consideration of the Fourth Report of the Special Committee on the Rules of the Senate be postponed until Thursday next, but that the schedule thereto containing a proposed revision of the Rules of the Senate be referred to the Committee of the Whole for consideration forthwith.

Honourable senators, we can do things sometimes differently. The point is that whatever we do, what we are asking the house to adopt has to be put before the house directly by motion.

Honourable senators, in Committee of the Whole, senators considered those rule changes *in seriatim*, moving and voting on them individually, one by one. Interestingly, I was talking about reports and oral process. Committee of the Whole continues the tradition of the report by the committee chairman being an oral presentation. There is no written report brought forward. The schedule, as amended in Committee of the Whole, was orally reported back to the chamber and adopted. In 1906, it was a draft set of rules or a list, and the Senate did the same thing. That document, that piece of paper, was referred to Committee of the Whole. Honourable senators, I shall establish later that rule 86, which put these rule changes before us, was anticipated and intended to work in conjunction with Committee of the Whole. By referring a schedule or a paper to the Committee of the Whole, the proposed rule changes were put before the Senate for consideration and debate. That has not been done in this instance. As a matter of fact, when the report was presented, none of the proposed rule changes were put before the house whatsoever.

Honourable senators, we cannot adopt any measure that is not seen and known by us and is not put before us by motion for debate and vote. We have a right, a privilege and a duty to know and examine every single word of the proposals that any motion asks us to adopt and vote on. This is our duty and our privilege in law. In the Law of Parliament, this process of knowing is called "reading" or "a reading." It is the parliamentary process by which the actual proposed text put by motion before us is considered, debated, amended and voted. Long before easy access to printing, the parliamentary procedure of "reading" took its name from the physical act of reading aloud every word of every bill and motion so that every member could have cognitive knowledge, and the house cognizance, of the proposal before them. Individually as

senators and collectively as the Senate, we “read” every single word, paragraph by paragraph, in the case of reports, and clause by clause in the case of bills, to express our judgment by our vote. Under the oath we took as senators, we verify or we swear that those words and our votes on them are true. The question now before us is the motion to adopt the report, but we cannot “read” the recommended rule changes because this report, this form of proceeding, does not make the recommended rule changes available to us. They are not within the pages the report. Only the report is before us. Therefore, the proposed rule changes are not before us for debate.

Honourable senators, the recommended rule changes are unavailable to us and beyond our procedural reach. We cannot consider them, amend them or vote on them. This procedural exclusion, this procedural absence of the substantive, actual recommended rule changes from this report, renders the report defective, irregular, out of order and even void, *ab initio*. The proposed rule changes are the centrepiece of the report. The star of the show must be on the stage. The recommended rule changes are not on the stage at all.

I put a lot of work into this, honourable senators, because I am aware that any rule change is an enormous challenge for the most experienced senator and I am aware that there are scores of new senators here. I could easily have presented the same material differently, but I have tried to make it intelligible to be understood.

Honourable senators, I have outlined three distinct areas where this report is defective and irregular. I will repeat them. First, the report exceeds the scope and mandate authorized by rule 86(1)(d) (i). Second, the report purports to impose closure on Senate debate and orders a date for the coming into force of the new rules. Third, contrary to well-established Senate practice, the most important item, the committee’s recommended rule changes, are not part of and are not included in this report. They are contained in an appendix to the report, which is, by this particular form of proceeding, procedurally beyond the reach of senators to be debated or amended. These three distinct sets of irregularities are so major that I ask His Honour to rule the report out of order on these grounds.

[Translation]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I would like to speak to the point of order raised by Senator Cools. I have a great deal of respect for the work done by Senator Cools, who always puts a great deal of time and energy into her research, into strengthening her arguments and into her presentations. We always learn something from her arguments.

However, I would like to point out, first of all, the inadmissibility of this point of order, given that a point of order must be raised at the earliest opportunity, which was obviously not the case here.

Indeed, on November 16, on behalf of the committee, Senator Smith presented the first report — and I will address the definition of a report in a moment — of the committee, and on a

Senate motion, the report was placed on the Orders of the Day for consideration at the next sitting, as usual. The motion was adopted without objection.

If we look at the *Journals of the Senate* from November 16, 2011, on page 407 we see that the honourable Senator Smith, P.C., Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament presented that committee’s first report, entitled *Revised Rules of the Senate*. His motion was seconded by Senator Cordy and the report was placed on the Orders of the Day for consideration at the next sitting. The question was put on the motion and was adopted.

In citation 321, Beaudesne states:

A point of order against procedure must be raised promptly and before the question has passed to a stage at which the objection would be out of place.

Any objections concerning the committee procedure up to the point of adopting the motion on November 16 are therefore out of place and, honourable senators, you may take these arguments into consideration. Therefore it would be important to draw His Honour the Speaker’s attention to these infringements, before the Senate reached a decision regarding the presentation of the report.

Then there are the other questions concerning the substance of the report and the committee’s mandate.

• (1630)

The Standing Senate Committee on Rules, Procedures and the Rights of Parliament has the power to act on its own initiative. I believe that applies to the Standing Senate Committee on Internal Economy, Budgets and Administration as well. Even if the Senate’s mandate had not been clear — which I do not believe to be the case because it seems to me that the mandate was quite specific — Rule 86(1)(d)(i) gives the committee the following power:

(i) on its own initiative to propose, from time to time, amendments to the rules for consideration by the Senate;

The first part is “on its own initiative.” Even if the Senate does not give the committee a mandate, it can give itself a mandate. It does not need a specific order from the Senate.

The second part is “to propose. . . amendments.” The rule says nothing about the scope of the amendments. It does not say “minor” or “major” or “significant amendments.” It says “amendments,” which gives the committee the power to initiate major amendments to form or content. Nor does the rule say that the amendments arising from the committee’s initiative are restricted to form.

I think that the committee’s mandate with respect to revising the rules is clear.

As to the substance of the report, the first recommendation, which is on page 412 of the *Journals of the Senate*, reads as follows:

1. That the existing *Rules of the Senate* be replaced by the revised *Rules of the Senate* contained in the First Appendix to this report, including the associated appendices to the Rules, effective from September 1, 2012;

Clearly, Senator Cools is defining a report according to the *Standing Orders of the House of Commons*. I would very respectfully suggest that the *Standing Orders of the House of Commons* do not apply to the Senate, and that nowhere in the *Rules of the Senate* is there a definition of what constitutes a report. A report, in the regular sense of the word, is an account or a statement. A committee conducts an examination and then presents or reports the results to the people who requested the examination or to those to whom it is supposed to present the report. The Rules therefore do not contain a definition of report nor do they specify any standards pertaining to reports.

Here we have a two-page report that refers to appendices that are a few hundred pages long. The Rules do not indicate that a report cannot have an appendix nor do they provide any specifications regarding the length of such documents.

This is a complete revision of the Rules. So, although the appendix is longer than two pages, I do not believe that this constitutes a defect in form or substance that would affect the validity of the report. Amendments can be proposed to the appendix or to the first two pages, which consist of recommendations. Additions, changes and deletions can be made. So, the Senate, in its sovereignty, has full power to change the first two pages of the report and the related appendices. There is absolutely nothing stopping the members of this chamber from asking questions about or changing parts of the appendices that they feel are unsatisfactory or need improvement.

As for the date of September 1, 2012, this is clearly a recommendation from the committee. It is not an order. The committee does not have the authority to give orders or instructions to the Senate. The Senate is sovereign. The committee has made recommendations to the Senate. Together, we will be free to discuss whether or not to accept those recommendations.

We can also decide to implement this rule later or even earlier, given what I would call the exceptional work done by the Standing Committee on Rules, Procedures and the Rights of Parliament to simplify and more clearly define the Rules. It is in our interests to implement these changes as quickly as possible.

As far as the date is concerned, it is a recommendation, not an instruction. I do not see how the Senate would be bound by it.

For all these reasons respectfully submitted, I believe that the point of order is out of order because it was not raised in time. As far as the substance of the point of order raised at length by Senator Cools is concerned, I have to say that it is not valid. We may say that it is not before us or pretend that we did not know

anything about it, but we all have read it; it is in the *Journals of the Senate*. In any case, if it does not exist, it certainly took a long time to read.

I think the point of order must be rejected.

[English]

Hon. Joan Fraser: Honourable senators, like everyone else in this chamber, specifically Senator Carignan who just spoke, I hold Senator Cools in great respect for her dedication to the integrity of Parliament, more particularly of the Senate, and for the depth of her research and reflection. When she raises these points, it behooves us all to take them very seriously.

I listened very carefully to her arguments and I would like to respond to the three objections that she raised. She said, first, that this report and its appendices, taken as a whole, exceed the mandate of the committee and of the subcommittee. I think this is not accurate. There is no limit in our rules to the initiative that the Rules Committee may take in proposing, from time to time, amendments to the rules for consideration by the Senate. That is an unlimited authority. The decision about whether the proposals will be adopted remains with the Senate, of course, but the Rules Committee is free to recommend changes that are as minor or as major as the members of that committee, after study and reflection, think is appropriate.

The subcommittee's mandate was equally broad. In both 2010 and 2011, it was simply "to review the rules of the Senate," and we did that. We undertook — and I personally undertook — to make that review as thorough as seemed appropriate. Except where we believed substantive change was truly necessary or appropriate according to the practices already in place in this chamber, we undertook that we would clarify the language and reorganize the rules in the attempt to make them clearer and easier to use. I believe that was fully within the mandate both of the Rules Committee and of the subcommittee.

• (1640)

Senator Cools mentioned that the record of the proceedings was absent. That is, of course, because the subcommittee met in camera, and the subcommittee had the undoubted right to meet in camera. By our rules, rule 92(3) says that meetings of subcommittees may be held in camera at the discretion of the subcommittee members. Further, of course, rule 92(2) authorizes committees, and therefore presumably subcommittees, by extension, to hold in camera meetings when considering any draft report. Every single one of the 29 meetings that the subcommittee held, long meetings, consisted of the consideration of a draft report. That was what the subcommittee was doing.

Beauchesne, sixth edition, at citation 850(2) says:

The purpose of *in camera* sittings is to allow members to feel free to negotiate, discuss, deliberate and, sometimes, compromise without the glare of publicity, which might add to the difficulties of agreeing . . .

It exactly covers what we were engaged in doing. I would submit that Senator Cools' first objection that we exceeded our mandate is not valid.

Senator Cools' second objection is that this amounts to a form of closure because the report includes a suggested date of September 1 for these rules to take effect if the Senate chooses to adopt them. I cannot agree that this is in fact a direct or indirect form of closure of debate. This matter has been before the Senate already for more than four months. Every senator has had the chance to speak, every senator will continue to have, if that is the will of the Senate, more chances to speak, although I wonder if after nearly four and a half months very many more senators are interested in speaking. The point of inserting a suggestion of September 1 was precisely to avoid the situation that Senator Cools referred to when a previous change to the rules was made, when any change to the rules is made, unless there is a date of coming into force. She referred to one where she specifically quoted the provision that this rule will take effect when the Senate next meets, and normally —

Senator Cools: After adoption.

Senator Fraser: After adoption. Normally anything that we adopt takes effect immediately unless we have said no, give people time. The object of suggesting a date of September 1, which of course the Senate can vary or reject if it wishes, was precisely to give even more time to senators and staff to familiarize themselves with the new formulation of the rules. I do not think that that constitutes closure.

Finally, Senator Cools raises an interesting and serious point when she says that the recommendation for the actual proposed new formulation of the rules is not part of the report and therefore is beyond the reach of the Senate, not before the Senate, unavailable to the Senate. I was interested to hear her refer to a past set of rule changes that was contained in a schedule to a report. It seems to me that the difference between a schedule and an appendix is not substantively serious. The point of putting these proposed changes in an appendix was to present them in an intelligible form as a coherent whole because among other things, this proposed reformulation of the rules rearranges many of the existing rules, and to have presented them paragraph by paragraph would have been a very cumbersome way to proceed.

On the other hand, it was clean and neat, we believed, to present as an appendix the entire document that would become the new formulation of the rules if the Senate approved it.

That appendix can, of course, be amended. A report of a committee can be amended. If the Senate wishes to amend this report, it can do so. It can say, "We adopt the report except that the proposed new rule 16(3)(g)" — I made that up, I do not know if there is such a rule — "will be amended as follows." The Senate can do whatever it wishes with this document. No element of it is beyond the reach of this chamber in deliberation.

Therefore, I cannot agree, much though I respect her argument, that this point of order is valid, and I hope Your Honour will so rule.

Hon. Mac Harb: Honourable senators, initially I did not want to say anything about this matter being brought by my colleague, but I think now I may want to add a few words. First, I very much appreciate what Senator Cools has brought to the attention to the Senate. This is an extremely important point and a very important

question. Frankly, it justifies the reasons that the Rules Committee had to look at the rules in order to specifically clarify what can and cannot be said, what can and cannot be done by a committee or by the Senate, by individual members of the Senate or by the Senate as a whole.

She raised three points, including the scope of the report and whether or not it fit in the mandate, and she pointed out rule 86(1)(d)(i) regarding whether on its own initiative the committee can make substantive amendments, or a few amendments, or can change the whole rule. I think this is something very important for the Speaker as well as our legal team to look at. It is an important point.

As for the second point, closure, I suppose I agree with what has been brought forward, that the Senate can decide not to implement the recommendations by September 1, 2012. They can put it indefinitely. However, I find troubling a comment made by my esteemed colleague, the chair, when he presented the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament. He said:

Honourable senators, I note that some useful background documents comparing the current and revised rules and explaining the more significant changes will be circulated to senators' offices in electronic form during the coming days.

That troubled me a bit because if I am to take this the way it is, then I am assuming that Appendix I and Appendix II may or may not have been tabled in the Senate at that time. Now, if I am to look at the actual report on the following page, it clearly states here in the first part:

Pursuant to rule 86(1)(d)(i), your committee has reviewed the *Rules of the Senate*, and recommends as follows:

That the existing *Rules of the Senate* be replaced by the revised *Rules of the Senate* contained in the First Appendix to this report, including the associated appendix to the Rules, effective from September 1, 2012.

• (1650)

I assume that the first appendix was tabled with the report in the Senate. After point 3, the report states:

The Second Appendix to this report contains a concordance indicating the relationship between the existing Rules and the revised Rules.

We have Appendix I and Appendix II. I submit, that in the Speaker's ruling it is imperative to look into this in the context of what we are discussing. Were Appendix I and Appendix II tabled with the report of the committee in the Senate? If so, that is one issue. If they were not tabled in the Senate and were sent electronically to members of the Senate at a later date, then Senator Cools is making a very important point that needs to be considered carefully, not only on this occasion but for future consideration of the Senate.

Senator Fraser: Honourable senators, I want to clarify a little something. This report recommends adopting as the revised *Rules of the Senate* the first appendix. The further explanatory

document, to which reference was made by the chair when he presented the report and to which Senator Harb refers, was circulated to all senators. It was available in printed form to anyone who wanted it, but these days we tend to circulate documents electronically, and that has been considered appropriate. It did not seem appropriate to the committee to include that as part of its formal report because that would have meant a third appendix. It seemed clearer to do it the other way, but that information was available.

Senator Cools: Honourable senators, I will make a few remarks and a few clarifications so that senators do not think I said what I did not say.

Senator Fraser raised a question about Senator Molson and when his schedule was put before the Senate. She said there is no difference between a schedule and an appendix. Senator Fraser missed my point totally. I am not quibbling about what we call the thing. My point is that the motion must put before us that which it asks us to vote on. The situation with Senator Molson was entirely different because the schedule was moved by motion to the house. Perhaps Senator Fraser would have some ground to stand on if she or someone had moved the First Appendix before the house for consideration. She may have some ground. In point of fact, nothing has been raised here in debate whatsoever about the fact that the recommended rule changes are not in the report. Most senators have believed erroneously that they are in the report.

I would just like to deal with that point. I do not give a scrap whether a report has a schedule or two schedules or an appendix. The point I am making is that whereas in the instance of Senator Brenda Robertson, and in 68 out of the 75 committee reports, in the last 43 years the proposed rule changes were in the report. Neither Senator Fraser nor Senator Carignan has explained the deviation from that which is Senate Rules Committee practice. The consistent practice of the Senate Rules Committee has been to put those proposed rule changes in the body of the report. I reject entirely Senator Fraser's notion that there were too many rule changes and it would have been too clumsy. Well, if there were so many rule changes, honourable senators, perhaps the committee could have considered bringing in several smaller reports so that the Senate could digest them.

I noticed that when Senator Fraser spoke many weeks ago, she said that these changes began with Senator Molgat. Well, I would like to inform Senator Fraser that Senator Molgat strenuously opposed large scale rule changes in a single report. Those of us who served with him would know that very well.

I also notice that the question I have put to His Honour has not been addressed by any of the senators who spoke.

I want to show senators the report of Senator Robertson, which I happen to have here, and I shall quote from it. At the time, many of us thought that 38 pages was a lot. Senator Robertson's report, dated June 11, 1991, clearly begins by saying that the Committee on Privileges, Standing Rules and Orders has the honour to present its first report, followed by each and every of the 19 recommendations, one after the other, some with more than one rule change, and ends, "Respectfully submitted, Brenda Robertson, Chairman."

Honourable senators, I would like us to be crystal clear that someone has to explain why the Senate Rules Committee has deviated from its own practice of including the recommendations in the report. If the committee chose to adopt a different practice, why was that new practice not explained to the house when the Chair of the Rules Committee presented the report and moved the report for adoption? Anything can be accepted as long as it is put before us. The committee has put very little before the house. Many new senators have been left to figure out what is really happening. I look forward to someone asking the questions.

Honourable senators, Senator Fraser claims unlimited authority under rule 86. Rule 86 is a delegated authority. There is no such thing as an unlimited delegated authority, for those who care to understand what delegated authorities are. The Senate has delegated an authority to the Rules Committee to recommend amendments on its own initiative from time to time. The Senate, when it did that, never anticipated what I would describe as procedural excess or procedural gluttony.

Honourable senators, first, there is never a right to do wrong. No power ever confers a right to do wrong. There is wrong going on here and it cannot be justified by referring to the rule. Every delegated authority is limited by the nature of it being a delegated authority.

Second, Senator Fraser also raised the issue of in camera meetings and records. I would say to honourable senators that when a committee, without an order of reference from the Senate, brings forth proposals or recommendations to the Senate, they have a duty to put their evidence before the Senate for its consideration. This is well documented. It is a sad day if we need rules to tell us that. When Senator Fraser says that the committee has a right to have meetings in camera and then cites consideration of draft agendas or draft reports as justification, I think she misunderstands the rule totally.

• (1700)

That rule about considering draft reports expects that, after the committee has met in camera, it comes out of camera and then does the adoption in public. That is the practice that this place used to do and is a practice I could not persuade the Senate Rules Committee to put it into force. No committee has any absolute right to secrecy. I repudiate that totally.

I want to get at something that the Honourable Senator Harb touched on a little bit. I want to say to honourable senators that the record is very unclear about what was actually presented on November 16, 2011. The *Debates of the Senate* show that Senator Smith says, "I have the honour to present the first report, which proposes a revised version." This statement in no way indicates — as did Senator Molson many years ago — that there were additional documents. Interestingly enough, honourable senators, if we were to look at Senator Brenda Robertson's presentation, we would see her very clearly asking the Senate to append the documents presented and to append the report to both the *Debates* and the *Journals* to form part of the permanent records of the house. That does not happen in this case. The *Debates of the Senate* say, "For the text of the report, see *Journals of the Day*."

Honourable senators, I want to pose a very important question to you. Journals are what we call the Reports of the Senate. These fine people over here are called reporters. They are third-party reporters. They merely report that which is said, done, and spoken here.

If Senator Smith or anyone else here do not ask that the documents be appended to the Journals, how did they spring on into Journals? Their mere presence in Journals does not put them before us for debate. Someone should take a look at this record.

The other question is that — and I want to deal with this as gently as I can — Senator Carignan has said that one must raise a point of order at the earliest opportunity. That is not true at all. This is not a question of privilege. A point of order is raised when the person comes to terms with it and does enough research to support it. In addition, Senator Carignan certainly cannot, in all earnestness, believe that because someone did not do something that it somehow validates a most invalid action. I do not accept that at all.

Further, I add to that my understanding that committee reports may be ruled out of order even though they have been received by the House. I cite Beauchesne, sixth edition, citation 893, at page 244:

A committee report may be ruled out of order even though it has been received by the House, and a motion to concur therein cannot then be entertained.

We should not mix up rule 43 — earliest opportunity — and a point of order. I have a copy of it here in front of me. I might as well put it on the record here.

Senator Fraser is a great proponent of in camera meetings. My instinct is always for the public record. In a rare record of a Rules Committee proceeding, on March 10, 2009, at page 2:9, Senator Fraser says in debate:

For those reasons — not for what is in front of us today — I would suggest an in camera practice in general.

There is something very wrong when any colleague rises and says to me that in camera should be the natural state of Senate committee deliberations on rule changes.

Honourable senators, I wish to answer more fully some of the objections that were raised because when Senator Carignan spoke he said that the Senate does not abide by the House of Commons rules. Yet, one of these rule changes says that now the precedence and practices of the House of Commons shall be followed in unprovided for cases. That is one of the proposed new rules that the honourable senator is eager to vote on. But he just said that the Senate should not follow the House of Commons. Make up your mind. The honourable senator should perhaps look at the proposed rules more closely.

I would like to thank honourable senators for speaking today, and I add that I am merely trying to uphold a principle, the long-held principle that rule changes should be moved for adoption here in the Senate after there has been clearly demonstrated need, demand and agreement for such changes.

Honourable senators, as I said before, this motion is defective. Nothing has been said to make me think differently, and no authorities have really been cited. I wish to say again that the Rules Committee report does not conform with its own customs, its own well-established practice, and its own form of proceeding on its reports that recommend changes to our Senate rules.

Senator Carignan, or someone, should explain why 68 of the 75 Rules Committee reports — 43 years — followed the system that Rules Committee Chairman Brenda Robertson also followed, and why this committee did not.

Honourable senators, as I said before, this form of proceeding has been followed by this committee in 68 out of the 75 reports that this committee presented to senators.

Honourable senators, I will return to my theme of the star of the show must be on the stage.

The committee's substantive rule changes must be put before us. Honourable senators, some may think and have argued that the proposed changes need not be in the report and that their presentation in the appendix is just fine. I would say that such an assertion diminishes the decision-making authority of the Senate because to say this is to say that the Senate and senators need not legally and constitutionally know what they are voting on and adopting. I disagree with them.

Consider, colleagues, the mischief — the horrors — that will be visited upon this country if our law of Parliament and our rules permitted this.

• (1710)

Let us understand what is being said here. Is it possible that one empty bill can be presented here containing only the words that bills 1, 2, 3 and 4 be adopted as outlined in bill 1, 2, 3 and 4 still in the House of Commons? We had better be careful with what is being advocated here. Our practice in this place is that the proposal which is moved by motion to be adopted here has to be legally seen and known by us.

Honourable senators, the crucial matter is that, however styled, every proposal before the house must be put before the house by motion for consideration. The appendix, by its nature, is not a part of the report. If we wanted to make it a formal proceeding, it would have to be moved by its own motion.

Honourable senators, I have already said that where other documents and papers contained a schedule or a list, in the past that schedule or list has been put by motion directly to the senators.

Honourable senators, in the case that I was speaking about, when Senator Molson put his schedule before the house, we must understand that those separate papers were then referred to Committee of the Whole. In the Committee of the Whole we will discover, if we look to the record, that the proposed changes were debated, amended and voted in seriatim, one by one.

Honourable senators, these rule changes before us are what I can only describe as a single-motion approach. By one simple little motion, this jumbo package, this combo approach, this massive document, this omnibus report — that is a good word — wants to be adopted.

Honourable senators, we have to work harder and better than that. No committee can get everything in one shot, one try.

These proposed rule changes are simply too numerous, too comprehensive and too complex for consideration in one proceeding, in one shot. This one-shot approach, this procedural excess, this procedural greed, these are deadly sins which tend to corrupt proceedings.

Honourable senators, I come now to the very important question that our rule changes are, de facto, always changes to our powers and privileges in the Senate.

Until 1968, the Senate had a rule which expressly ordered that whenever rule changes were to be put before the house, every senator had to be summoned. I will read this. Until 1968, Senate rule 29 expressly ordered that:

No motion for making a standing rule or order can be adopted, unless two days' notice in writing has been given thereof, and the senators in attendance on the session have been summoned to consider the same.

This is what Senator Molson and his committee were dealing with when they moved to the regime of rule 86(1)(d)(i). This special summons was repealed in 1968, on the same ground that the Senate adopted rule 86(1)(d)(i), the authority for this report before us. This new rule intended that the Rules Committee follow established practice, like the Committee of the Whole, to consider its proposed rule changes. Our *Companion to the Rules of the Senate of Canada*, 1994, states expressly at page 307 — this is for Senator Fraser and Senator Carignan, too:

When a report of the Committee of [Privileges,] Standing Rules and Orders recommends substantial changes in the Rules of the Senate, such report is usually referred to a Committee of the Whole for consideration.

Let us understand, the 1968 changes had the notion that we should keep the rules under constant study. They should not be a mystery. It was intended, in the heads of the senators who proposed these rule changes under this rule, that this rule would be used in conjunction with Committee of the Whole. Now most senators do not even know that rules are privileges.

Honourable senators, we have a right and a duty to know and examine every single word of the proposals a motion asks us to adopt. By placing the text in an appendix, the committee has placed this beyond our reach.

Honourable senators, when Senator Molson put his schedule before the house, he also told the Senate that the schedule included the proposed rule changes, paragraph by paragraph, side

by side the existing rules. The schedule was composed of two sets of rules: the current rules, the existing rules, and the proposed rule changes. Nothing like that has happened here in this instance.

Senator Molson informed honourable senators that:

... the rules now recommended to the Senate are set forth in a schedule to the report showing clearly which should be repealed, the amendments proposed for others, and the new rules considered to be desirable.

Nothing like that has happened here.

I come finally to the importance of knowing. Honourable senators, when we come to this place, we stand here in the presence of all senators in a very solemn moment. We put our hands on a Bible and we take our oath. I have problems with such oaths being slighted.

Honourable senators, the ancient parliamentary concept of “reading” is a necessary and routine feature of all consideration and debate. The senators and the Senate read and consider every committee report, just as we read every bill. A senator may move that a committee report be read again a second time or that it may be referred back to committee or be hoisted for six months or that its consideration be postponed to another day.

Daily we read the orders of the day one after the other as the clerks call them. Rule 59(5) allows a senator to move a motion without notice to proceed to the reading of the Orders of the Day, that is, to their consideration and debate. Right now we are reading the Orders of the Day, Order No. 4 under Reports of Committees. Reading is a cognitive process of knowing cognition. Cognition is those mental processes including perception, reasoning and judgment. It is the hearing of, the setting our eyes on, and the actual reading of every word in the proposals put before us by motion. It is our oath, colleagues, that sacred and solemn invocation of our deity, divinity, to witness the truth of our actions and words. We debate and vote under sworn oath. By “readings,” by our cognition of the words proposed, we verify that those words we hear and read are the very same words that we vote. Under oath we verify and swear that those words and our votes on them are true.

To this end, the Clerk of the Senate, also under oath, certifies a copy of every motion, bill and report immediately after adoption. Our business is transforming words into law, but only those particular words circumscribed by and limited to the forms of proceedings in bills and reports put before us by motions. We transform those words and only once, and this — very important to me — we transform only those words, not other words elsewhere in other documents or other proceedings, but those words limited and circumscribed by those pages we style bills and committee reports.

In this we are sworn before God to exercise diligence, like judges in judicial proceedings, which our proceedings are. Our vote on this report will transform the designated words of the report into our rules, the law of Parliament, the law by which we make law. We are sworn to be true.

Honourable senators, the question before us is the motion to adopt the report, but the actual proposed rule changes are not within the pages of the report. They are outside of and beyond it, in an alien document. We cannot read them.

I ask senators in closing, can we read what we cannot see? Can we vote on what we have not read? Can we swear that the words we cannot see and read are the very words on which we vote? Can the Clerk of the Senate over at the table certify that we did that which we did not?

The strength of our parliamentary system is that every procedure stands on moral ground — moral ground, colleagues — to preserve truth, to facilitate free speech and debate and, at the end of the day, all for the common good.

Senator Fraser and others could explain to me the common good in secrecy and in all these processes.

• (1720)

The Hon. the Speaker: Honourable senators, pursuant to the *Rules of the Senate*, the Speaker, at a certain point, is able to advise the house that he or she has heard the argument and has grasped the nuances.

I was going to suggest that, having been a member of Senator Robertson's committee, I should recuse myself, but then the arguments would all have to be made over again to another Speaker. However, I did not sit on Senator Molson's committee, so maybe it balances out.

I would like to say that there is an old principle of *Nihil est in intellectu quod non prius fuerit in sensu*. That is the principle that says, "Nothing is in the intellect that was not first in the senses." That principle has been well articulated in the argumentations this afternoon.

However, more importantly, honourable senators, as many of you know, in the Speaker's quarter's, there is a passage from Seneca that says, "Nothing that rushes headlong and is hurried is well ordered," *Nihil ordinatum est quod praecipitatur et properat*. It is based on that principle that I will take this matter under advisement. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to welcome the young Canadians in our gallery who are fortunate to be witnessing this excellent debate in the Senate of Canada this afternoon. The students are from Father Michael Troy Junior High School in Edmonton.

On behalf of honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

[Translation]

EDUCATION IN MINORITY LANGUAGES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Losier-Cool, calling the attention of the Senate to the evolution of education in the language of the minority.

Hon. Gerald J. Comeau: Honourable senators, I note that this is the 14th day for this inquiry. I still have not had a chance to finish my research on this subject, but I do intend to talk about it. With leave of the Senate, I would like to adjourn the debate in my name for the rest of my time.

(On motion of Senator Comeau, debate adjourned.)

[English]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY

Hon. Dennis Dawson, pursuant to notice of March 14, 2012, moved:

That, notwithstanding the Order of the Senate adopted on June 15, 2011, the date for the presentation of the final report by the Standing Senate Committee on Transport and Communications on emerging issues related to the Canadian airline industry be extended from June 28, 2012 to November 30, 2012.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Wednesday, March 28, 2012, at 1:30 p.m.)

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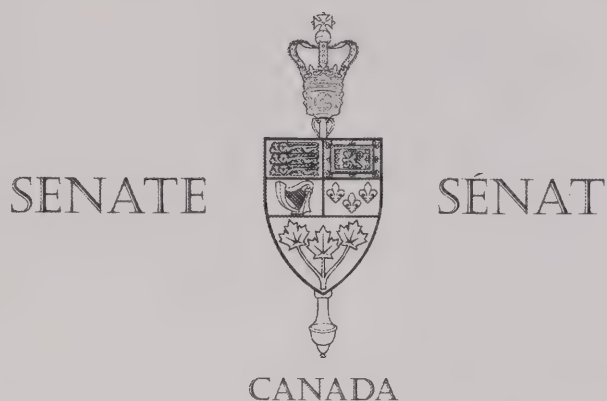
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The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Wednesday, March 28, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

BUDGET SPEECH

ACCOMMODATION FOR SENATORS IN COMMONS GALLERY

The Hon. the Speaker: Honourable senators, I remind honourable senators that the budget speech will be delivered in the other place at 4 p.m. tomorrow, Thursday, March 29, 2012. As has been the practice in the past, the section of the gallery in the House of Commons that is reserved for the Senate will be reserved for senators on a first-come, first-served basis. As space is limited, this is the only way we can ensure that those honourable senators who wish to attend can do so. Unfortunately, any guests of senators will not be seated.

SENATORS' STATEMENTS

FOREIGN CRIMINALS

Hon. Gerry St. Germain: Honourable senators, Canada is regarded internationally as being a generous country. Our high standard of living is backed by a justice system based on fairness and supported by laws that uphold our nation's will for a high degree of accountability to be placed upon those who commit wrongs. However, recent developments originating out of California may question whether the interests of Canadians are well served when our government's officials seek to protect the lives of the most atrocious foreign criminals.

Honourable senators, I speak with reference to the case of convicted fugitive Arthur Carnes. Five years ago, Carnes brutally murdered his boss and then proceeded to dismember the body while documenting his heinous act with digital photos. Carnes then posted these photos on a website along with a manifesto he wrote in honour of "natural born killers," which detailed the ways available to commit graphic slayings of human beings. He then fled to Canada, where he was arrested some months later in Fort Langley, British Columbia, by the RCMP.

In 2009, the Government of Canada deported Carnes back to the State of California to stand trial. As part of the deportation agreement, Canadian officials received assurances from the State of California that Carnes would not face the death penalty for the heinous, cold and calculated slaying that he committed. I understand that agreements are negotiated from time to time in the interests of fairness. However, when such extraordinary and profound circumstances exist, like they do in the case of Arthur

Carnes, I believe that the Government of Canada has no place in protecting the life of a foreign citizen whose crimes committed are of such wicked proportions.

When commenting on the murder, Sacramento Deputy District Attorney Kevin Greene described Carnes' acts as "pure evil" and said that Carnes "cares nothing about human life, whether it is of a man, woman or child."

Honourable senators, I will state again for the record that I was an MP for Mission-Port Moody when Clifford Robert Olson went on his murderous rampage, killing several of my young constituents and showing not one ounce of remorse for the pain he caused so many. I have been a witness to the tragic after-effects that a major crime has on individuals and entire communities. While Carnes may not have killed in the quantity of Olson, his crime shares in his type of malice.

Carnes committed his crime knowing of the possible penalties he could be subjected to, including the death penalty. His escape and illegal entry into Canada should not have negated the use of the most severe penalty possible. Honourable senators, I believe that the Government of Canada has no business protecting the interests of foreign criminals like Arthur Carnes against the possible outcome of legitimate judicial systems, such as the one administered in the United States of America.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of His Excellency Thordur Aegir Oskarsson, Ambassador-designate of the Republic of Iceland, and Mr. Steingrímur J. Sigfússon, Icelandic Minister of Economic Affairs.

On behalf of all honourable senators, welcome to the Senate of Canada. The distinguished visitors are guests of the Honourable Senator Johnson.

• (1340)

I also wish to draw the attention of honourable senators to the presence in the gallery of Mr. Eirik Moen, Secretary-General of the International Democratic Union, who is the guest of the Honourable Senator Finley.

Welcome to the Senate of Canada.

MR. LUKE NOFTALL

Hon. George J. Furey: Honourable senators, I rise today to speak about a remarkable and courageous young man, a fellow Newfoundlander and Labradorian, named Luke Noftall. At the age of 12, Luke was an accomplished student and athlete. He was also, at this age, diagnosed with epilepsy. As colleagues know, this chronic disorder affecting the central nervous system is caused by a malfunction of the electrical signals that control the operation

of the brain. This condition can and does negatively affect the learning and social growth of our children, and this condition presents challenges to the health, well-being and self-esteem of youth like Luke. For years, Luke has struggled with this condition, a struggle that completely changed his young life. He has faced this struggle with courage and resilience. He has undergone countless procedures and spent far too much of his young life in hospitals.

In a recent letter to Premier Dunderdale, Luke said:

Four years ago, I underwent a major brain resection; three brain surgeries in five days. Twenty-one days in the hospital plus months of rehab, and still my seizures continued. I do not remember much of that year.

Today, at age 19, Luke is a student at Memorial University. His amazing courage and determination will not allow this chronic neurological disorder to stop him. With the support and love of his very caring family, Luke continues to face the tremendous burden of dealing with this every day.

Honourable senators, March 26 marked World Epilepsy Awareness Day, a day dedicated to increasing awareness about epilepsy worldwide and a day to shed light on courageous individuals like Luke, who is the Epilepsy Ambassador for Newfoundland and Labrador. As long as we have young people in Canada who, like Luke, are determined to succeed no matter what obstacles they face, we can all continue to have great hope for the future.

Honourable senators, please join me in recognizing the outstanding courage and determination of Luke Nofall and the 300,000 Canadians who deal with epilepsy on a daily basis.

BELARUS

UNITED CIVIL PARTY

Hon. Doug Finley: Honourable senators, I rise again to applaud the courageous delegates who are attending the United Civil Party's Fourteenth Annual Congress in Belarus this weekend. These delegates continue, under extremely adverse conditions, to work to advance the cause of freedom and democracy in Belarus. Simply because they desire fair and free elections, these delegates have faced an oppressive regime that has jailed, tortured and beaten their leaders, activists and supporters. Two years ago, I was proud to meet with the United Civil Party's candidate for presidency, Jaroslav Romanchuk, their Chairman, Anatoly Lebedko, and party activists Andrei Dmitriev and Vladimir Neklyayev. Their open passion and vision for a free Belarus was truly inspiring.

Since then, Belarus has had what could barely be described as an election in December 2010. President Lukashenko's percentage of the popular vote fell a few points to a close win of 79.67 per cent.

Over 40,000 Belarusians took to the streets to protest this fraudulent election. Consequently, the Lukashenko regime violently and brutally cracked down on pro-democracy

protestors. Over 700 activists, 25 journalists and 7 opposition presidential candidates were detained, beaten and tortured. Some candidates and activists will likely remain in jail for years to come.

Early this morning, I received an update from Belarus that demonstrates that Lukashenko is showing no signs of change. The aforementioned Anatoly Lebedko, who visited this Senate less than two years ago, was detained along with two other senior officials of other democratic parties.

Honourable senators, enough must be enough. It is time for the world to take a stand against this ruthless and brutal dictatorship. Canada must stand with our friends in Belarus and oppose the Lukashenko regime. I will be setting up communication with all of the involved parties in the pro-democratic movement, right or left.

I encourage all Canadian members of Parliament and senators to subscribe to this with me. For further information, please contact my office. We must demand the unconditional release of all political prisoners in addition to immediate free and fair elections to be monitored by international officials. The Belarusian people deserve a government that respects human rights, the rule of law, freedom of speech and freedom of the press. It is time for the last dictator in Europe to allow democracy to flourish in Belarus.

I applaud all of the delegates who attend the United Civil Party's annual congress for their work in advancing the cause of freedom, and my thoughts and prayers are with all the political prisoners who are wrongfully detained.

Za svobodu — For freedom.

MISSING AND MURDERED ABORIGINAL WOMEN AND GIRLS

Hon. Mobina S.B. Jaffer: I rise today to give voice to the missing women in British Columbia. Heather Chinnock, Sarah de Vries, Tanya Holyk and Sherry Irving are but a few names of the Aboriginal women who have gone missing in British Columbia. Sadly, these names and dozens of others are often buried deep within the footnotes of police investigations and public inquiries. The cries of the families who mourn the loss of their loved ones often fall upon deaf ears. Not only are these families forced to cope with the loss of their mothers, daughters, sisters and wives, they are also forced to accept the reality that they may never see justice.

Honourable senators, I have been working on this issue in my province of British Columbia for several years and have followed the progress of the investigations quite closely. Many years ago, when several Aboriginal women went missing, their loved ones and colleagues sought help from the police. Unfortunately the police did not heed their plea. At the time, we all remained silent. After a lot of hard work, a few cases were brought before the courts, providing a few of the families with the justice they had longed for.

Unfortunately, the majority of the families who have been suffering for well over a decade are still struggling to accept that the cases of their loved ones will never be heard in court.

This is a great tragedy, one that deeply affects not only members of the downtown Vancouver community where my family resides but also the province of British Columbia and, indeed, the entire nation.

Sadly, most of the women who have gone missing belong to extremely vulnerable and marginalized groups. They therefore do not have the resources they require to access justice. The Aboriginal families are not heard. The Aboriginal families are not getting justice.

Honourable senators, we must remain mindful that the 65 women who have been reported to have gone missing in Vancouver between 1978 and 2011 are Canadian women. Today again their families are struggling to be heard and to seek justice. I would like to conclude by giving a voice to one young woman who, before going missing herself, drew attention to the discrimination that she and many of her Aboriginal sisters were confronted with.

Sarah de Vries, who disappeared in 1998, wrote honestly and earnestly in her diary about the racial discrimination that she felt was prevalent in the way her community was dealing with the cases of missing women. When discussing instances of when non-Aboriginal women go missing, she stated it would be:

Front page news for weeks, people protesting in the streets. . . . While the happy hooker just starts to decay like she didn't matter, expendable, dishonourable . . .

• (1350)

Ms. de Vries went on to state:

It's a shame that society is that unfeeling. She was a woman's little girl, gone astray, lost from the right path. She was a person.

These women's families are seeking justice and still have to be heard by the Missing Women Commission of Inquiry.

INTERNATIONAL ADULT LEARNERS' WEEK

Hon. Catherine S. Callbeck: Honourable senators, never before has it been so important for Canadians to continue learning over the course of a lifetime. In this new global economy, we must have a skilled workforce that can adapt to changes in the workplace, the job market and technology.

To help highlight the value and importance of lifelong learning, the Canadian Commission for UNESCO established International Adult Learners' Week, which is being celebrated this week. The week serves to raise the awareness of the public to lifelong learning. This year's theme is "I'm Still Learning," a quote attributed to Michelangelo that is meant to remind us that everyone, regardless of skills, education or background, can all benefit from continued learning.

This week also gives us the opportunity to celebrate the accomplishments of adult learners and their teachers across the country.

Dianne Smith from my province has a story that inspires. Dianne admits her reading skills were poor. As a result, she had to hold down three jobs to support her family. It was manual work and, as she got older, she realized she would not be able to do it forever. She learned about a literacy upgrading program through Prince Edward Island Literacy Alliance, and she decided to try it.

Dianne has never looked back. The day before her fiftieth birthday she obtained her Grade 12 certificate. New opportunities came along and doors were opened. She now owns and operates her own licensed community care facility in Charlottetown where she employs more than a dozen people. She is involved in a number of volunteer activities in the province. She has travelled across Canada and beyond to speak about the literacy challenges that adults face, including an appearance before the Standing Senate Committee on Social Affairs, Science and Technology in 2007.

Honourable senators, upon receiving her Grade 12 diploma, Dianne said:

It may not be much of an accomplishment to a lot of people, but I get a big lump in my throat, and tears come to my eyes and you'd think I'd won the 6/49.

There is no question that this was a great accomplishment. She recently wrote a book with two other adult learners called *Relentless Journeys: Literacy Stories Shared by Three Women in Canada*. They hope to encourage others to continue learning.

I want to end with a quote from Margaret Eaton, President of ABC Life Literacy Canada:

Literacy is a wonderful tool that opens up a world of opportunities for individuals and allows them to engage fully and confidently in life's activities — whatever they might be. And learning is a lifelong journey that should never end.

JAMAICA

Hon. Don Meredith: Honourable senators, last week Jamaica's Foreign Affairs and Foreign Trade Minister, Senator the Honourable Arnold J. Nicholson, came to Canada for the first official foreign visit since being appointed to his post in January by the Right Honourable Portia Simpson-Miller, Prime Minister of Jamaica. His choice of Canada for his first official foreign visit testifies to the long lasting friendship and goodwill that exists between our two countries.

While in Canada the minister met with both private sector and public officials and identified key areas where our government would be able to assist the Jamaican people, including capacity-building in agriculture and the military.

We highlighted Canadian organizations which are partnering with their Jamaican counterparts to make a difference on the island. Our discussion focused on the Federation of Canadian Municipalities which is helping Caribbean authorities to support nearly 50 local governments and agencies in their economic

development initiatives. As well, the University of Alberta is also helping to raise the professional standards of teacher education offered in Jamaican colleges.

Honourable senators, the highlight of the minister's visit was his keynote address at the national launch of Jamaica50 Canada festivities, for which I served as patron of honour. With guests coming from across the country, this event was considered the largest gathering of the Jamaican Diaspora in Canada to date. We were also joined by many viewers from around the world by web stream.

In his address Minister Nicholson stated:

At the bilateral level, and as result of the policies which successive Canadian government have adopted over nearly 50 years, Jamaica has been the recipient of cherished technical assistance. In the fields of education, health, local government, justice reform and in disaster preparedness and relief, we have been able to count on the bounty that flows from the Canadian Government and people.

I would also like to personally thank my colleague the Honourable Marjorie LeBreton, Leader of the Government in the Senate, for graciously greeting Minister Nicholson in the absence of our Prime Minister. In her address she echoed Minister Nicholson's warm sentiments, stating:

The friendship that exists between Jamaica and Canada, between our two peoples, has always come easily. The greatest strength of Canada-Jamaica relationship is the people-to-people ties we share.

In order to continue fostering this relationship in the coming months I will be hosting a Jamaica Day on Parliament Hill and there will be spirits — lots of spirits — to provide parliamentarians with an opportunity to experience Jamaican culture and celebrate 50 years of diplomatic relations between our two countries.

Honourable senators, please join me in thanking all those who have made a contribution to Jamaica's 50 years of independence. May we continue to work shoulder to shoulder for generations to come.

[Translation]

ROUTINE PROCEEDINGS

CANADIAN HUMAN RIGHTS COMMISSION

2011 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, pursuant to section 61 of the Canadian Human Rights Act and section 32 of the Employment Equity Act, I have the honour to table, in both official languages, the 2011 annual report of the Canadian Human Rights Commission.

GLOBAL CENTRE FOR PLURALISM

2012 BUSINESS PLAN TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the 2012 Executive Summary of the Corporate Plan for the Global Centre for Pluralism.

[English]

EMPLOYMENT INSURANCE

NOTICE OF INQUIRY

Hon. Catherine S. Callbeck: Honourable senators, pursuant to rule 57(2), I give notice that, two days hence:

I will call the attention of the Senate to the need to adequately support new mothers and fathers by eliminating the Employment Insurance two-week waiting period for maternity and parental periods.

[Translation]

INDUSTRIAL ALLIANCE PACIFIC INSURANCE AND FINANCIAL SERVICES INC.

PRIVATE BILL—PRESENTATION OF PETITION

Hon. Gerald J. Comeau: Honourable senators, I have the honour to present a petition from Industrial Alliance Pacific Insurance and Financial Services Inc., in Vancouver, British Columbia, calling on the government to pass a bill authorizing Industrial Alliance Pacific Insurance and Financial Services Inc. to be continued as a body corporate under the laws of the Province of Quebec.

[English]

QUESTION PERIOD

JUSTICE

CHILD PROSTITUTION—SEX TOURISM

Hon. Mobina S. B. Jaffer: Honourable senators, my question is for the Leader of the Government in the Senate. This week we learned that at least 73 Canadians have been arrested outside of Canada for abusing or molesting children, or for possessing child pornography in the last three years. The number is a mere indication of how great the problem truly is in most cases of sex tourism, because it goes unreported.

• (1400)

In 1997, Bill C-27, An Act to amend the Criminal Code (child prostitution, child sex tourism, criminal harassment and female genital mutilation) was passed by both houses. I ask the Leader of the Government if she can please find out how many people have been prosecuted in Canada under this act. I only know of two cases.

This past weekend, Prime Minister Harper announced that our government would be providing support for projects to combat human smuggling in Thailand. What is our government doing to address the much broader and urgent problem of Canadian sex tourism in Thailand?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, Senator Jaffer asked for some specific details on facts and figures with regard to prosecutions in Canada, and then she asked an additional question, which I will obviously have to take as notice and provide a written response.

Senator Jaffer: Honourable senators, I have four supplementary questions. What resources have been set aside to ensure that the provisions of Bill C-27, which deal with sex tourism, are properly enforced and implemented?

What resources and training are consular staff who work abroad provided to deal with cases of sex tourism?

How many security offices are there in Thailand to deal with the issue of sex tourism?

What steps are being taken to ensure that offenders are treated with the same severity that they would face had they exploited Canadian children?

Senator LeBreton: Those are all good and valid questions, honourable senators. I would be very happy to seek a written response.

I would be remiss if I did not, though, applaud the efforts of my colleague in the other place, Joy Smith, who, as honourable senators know, has worked tirelessly on human trafficking and has another private member's bill before Parliament. If there is a champion on human trafficking and the abuse of women brought to this country for the sex trade, I can think of no person more deserving of our thanks than Joy Smith.

Senator Jaffer: Honourable senators, I would also like to join the leader because I work very closely with Joy Smith and I know the work she does. I work with her closely in Vancouver on issues of human trafficking and I would also like to take this opportunity to commend her work.

However, I ask that the leader look at this specific issue, which is more than human trafficking; it is Canadian men going to Thailand and committing acts of sex tourism. I would like answers to the questions I asked.

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

TOBIQUE FIRST NATION

Hon. Sandra M. Lovelace Nicholas: Honourable senators, my question is for the Leader of the Government in the Senate.

The community of Tobique First Nation is facing an intolerable housing situation. Out of desperation, one of the elders has been on a 10-day hunger strike, and many others have written to me about the deplorable conditions of their homes. They have sent pictures of the broken and rundown conditions in which they are living.

Many community members have said INAC has not responded to their requests for help. The homes are in very bad condition and there is a lot of mould, which has caused ill health for many of them. Every time they request help, they are put on the bottom of the list and are ignored.

The community is under third-party management and not sure how funds are distributed to the band council. It appears that selected people get repairs and that most of the people who are on social assistance and who really need the help are not getting it.

Can the government look into this deplorable situation and investigate how much money is being distributed and why the most in need are not getting help?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I would like to suggest that it is not correct to say that the government or anyone involved with the government has put this issue to the bottom of the list; that is not the case at all. We are committed to ensuring the health and safety of First Nations people. I am familiar with the situation that the honourable senator has raised.

We have been in contact with the band regarding the elder whom she mentioned and her housing concerns. The band has advised that they have the resources to deal with this particular issue. As a government, we have invested significant funds in First Nations housing over the past few years, resulting in over 1,700 new homes and 3,000 renovations on-reserve every year.

We do have a problem with flooding. We have a situation on the Albany River in Northern Ontario as well.

With regard to the question on third-party management, funding has not decreased to the First Nation since the third-party management has been put in place. The third-party management works to ensure accountable, effective and proper use of public funds. The third-party management has not in any way interfered with or stopped the flow of financial assistance into the community.

Senator Lovelace Nicholas: I am sorry, honourable senators, I did not say that the government was responsible. All I said was that they are not responding.

I am asking for the government to look into why these people are being ignored, whether it is by INAC or the chief and council in the community. I am not accusing the government of anything.

Senator LeBreton: Honourable senators, I did not take it as an accusation. I took the honourable senator's statement as saying that these issues are put at the bottom of the list. I was simply pointing out to Senator Lovelace Nicholas that the government is working very closely with the leadership in this particular First Nations community. She did ask about third-party management. Third-party management has not in any way interfered with or caused any difficulty in the dispensation of funds.

Where I do take issue with the honourable senator is with the notion that somehow or other the government does not put the interests of First Nations people first and foremost, which of course we do, particularly when they face situations like they are facing right now in Northern Ontario and in New Brunswick with regard to the issue of flooding.

[Translation]

ENVIRONMENT

POLAR ENVIRONMENT ATMOSPHERIC RESEARCH LABORATORY

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, the Polar Environment Atmospheric Research Laboratory, also known as PEARL, is a world-renowned Canadian atmospheric research station located in the northernmost part of the world. Researchers there monitor the ozone layer, greenhouse gases and pollution in the High Arctic. In particular, last year, the research station played a key role in discovering the very first hole in the ozone layer over the Arctic.

But, now that the government has cut the station's funding, including funding for the Canadian Foundation for Climate and Atmospheric Sciences, the station will be forced to close its doors in April. Could the leader please tell us why the government is refusing to support climate research by depriving this important laboratory of the funding it needs to remain open?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, Environment Canada has provided partial funding, along with other bodies, since 2009 for the Polar Environment Atmospheric Research Laboratory. I believe I have already answered this question in this place. Regardless, university researchers have not been successful to date in their application for funding to do the research at PEARL. Environment Canada's ozone and weather monitoring station at Eureka, Nunavut, does continue to operate and function. It is not affected by the inability of the applications for research funding.

• (1410)

Senator Tardif: Honourable senators, is the leader telling me, then, that the station will not be closing at the end of April? That is not what the scientists working there are saying. Would she confirm whether the station will be staying open, yes or no?

Senator LeBreton: All I can tell the honourable senator is what I have been advised. Environment Canada's ozone and weather monitoring station at Eureka continues to operate and is not impacted by the outcome of the university researchers' being unsuccessful to have funding for their applications with PEARL.

Senator Tardif: I do not understand, Senator LeBreton. There are no funds. They cannot operate the station if there are no funds. If they have been unsuccessful, there are obviously no funds.

Will the government make funds available to keep this important research station going?

Senator LeBreton: Environment Canada does have an ozone and weather monitoring station in Nunavut. I have just repeated that the operations of Environment Canada at this station have not been affected by the PEARL decision.

Senator Tardif: I do not think that is the same thing, Senator LeBreton. The station being operated is 1,200 kilometres south. It is the most northerly station that will be cut.

This station provides a very important service. We are talking continually about Arctic sovereignty. It seems to me that if we are talking about Arctic sovereignty, and this is something that the leader's government is always speaking about, then having an occupied station all year long doing world-class science, being the place where international groups want to come and do research, that would be affirming Canadian sovereignty.

Why is the leader's government allowing this Arctic research station to close?

Senator LeBreton: The fact of the matter is that Environment Canada is still operating there. I will seek, honourable senators, to get further information.

As far as I know, Environment Canada is still conducting research, operating stations in the North. With regard to the university funding, obviously they were not successful. Environment Canada still puts significant funding into projects, but I will seek further clarification.

Hon. Grant Mitchell: Honourable senators, this is another classic case of the government simply saying what it wants to believe over and over and over again — even though it is fundamentally wrong — somehow hoping it will turn out to be right.

Let me paraphrase the leader's consistent answer in another way: "Black is white; in is out; up is down; red is brown; and, oh, by the way, that parrot is not dead."

The fact of the matter is that the station is shutting. It is over; it is dead. Black is not white; black is black and white is white, and that poor parrot is dead.

Given that this station is critical for finding all kinds of climate-related information from ozone depletion to climate change in the North, how is it that this government will ever have one possible

chance of making the proper decisions about climate change mitigation, adjustment and accommodation if they just will not seek out the proper scientific evidence upon which to make those decisions?

Senator LeBreton: Honourable senators, regarding the honourable senator's little "black and white" statement, the one thing that is very sad for honourable senators opposite is that red is now blue.

Environment Canada operates in the North. With respect, I indicated to Senator Tardif that I would seek clarification. Environment Canada has put money into PEARL, and university research people who worked at PEARL were also seeking funding. They were not successful with their application for funds, but that does not take away from the fact that Environment Canada operates a station in the North for weather and ozone layer monitoring.

As I promised Senator Tardif, because she asked a very serious question — I cannot say the same for Senator Mitchell — I will seek clarification.

Senator Mitchell: The question that I would like to pursue further is the question of sovereignty. My colleagues alluded to the important international law maxim that it is not contrived military appearance and military activity that will establish sovereignty in disputed areas like the North, which I should point out is disputed because of the climate changes that this government will not acknowledge. What stands a nation in good stead in international courts is day-to-day use by people who live there and by significant scientific and occupational pursuits. Those will be lost.

Has the government given any consideration to what impact that will have upon our ability to continue to establish our sovereignty in an area that is now in question because of the very climate changes that this government simply hides its head in the sand about and says "those are not occurring; that parrot is not dead"?

Senator LeBreton: With regard to the whole issue of Northern sovereignty, the honourable senator knows full well that we have a refuelling and docking station for the Royal Canadian Navy and other government vessels operating in the North. That has not changed.

The North is very important to this government. We have made more investments and have done the most for the North by any government since John Diefenbaker's government in the 1950s and early 1960s.

Senator Mitchell: This government has done a lot to the North, because what climate change will do to the North is almost incomprehensible, and this government is doing nothing to try to fix that.

Let us go another route. It is \$1.5 million to run the PEARL station. This government is putting \$30 million into 1812 festivities. Therefore, let us just say this government cuts that in

half and spends \$15 million on 1812 and \$15 million to fund PEARL for 10 years. Would that not be the perfect solution, where this government could glorify the past with \$15 million and also be better prepared for a climate changing future for another \$15 million? Would that not be a better, more effective use of funds?

Senator LeBreton: Honourable senators, I will not get into hypothetical arguments with Senator Mitchell about various government programs. The government has many initiatives. We are clearly committed to Arctic sovereignty, and we are clearly committed to jobs and the economy in this country. When the budget comes down tomorrow, we will see the direction the government will be taking into the future. I will not get into a situation of answering "what if" and "why here instead of there?" That is a futile exercise.

Senator Mitchell: It is interesting that the leader would raise jobs and the economy, because the PEARL station is critical to jobs and the economy. It is critical for training many young Canadian scientists and PhD graduate students in climate science. It is critical for the jobs those scientists get because they are trained. It is critical for the kind of private-sector money they attract with joint projects and funding for private sector to assist those projects.

All of that is lost. Has the government made an assessment of how much training will be lost; how many PhD graduate students will not be trained here, if at all, but will be trained somewhere else; and how many of those jobs will go somewhere else, if they ever get those jobs at all? Could she give us an idea of how much private-sector funding will be lost because this government cannot afford to find \$1.5 million a year from an 1812 project that could easily be cut in half and get just as much out of?

Senator LeBreton: First, Environment Canada and other organizations have contributed to PEARL since 2009. The question here is the funding applications of some university researchers. To date, this funding has not been approved, but that does not take away from Environment Canada's work and actions in the North.

Senator Mitchell's suggestions are interesting; I will note them, but I will not promise the honourable senator that I will even pass them along.

• (1420)

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table a delayed response to an oral question raised by Senator Hubley on March 13, 2012, concerning the modernization of the fishery. I also have the honour to table a delayed response to an oral question raised by Senator Cowan on December 16, 2011, concerning the Auditor General.

FISHERIES AND OCEANS

MANAGEMENT OF ATLANTIC FISHERIES

(Response to question raised by Hon. Elizabeth Hubley on March 13, 2012)

This government recognizes the importance of fisheries to Canadians and its value in terms of the Canadian economy. In 2010, Canada exported \$4.1 billion in seafood products and the commercial fishing industry accounts for approximately 80,000 jobs across the country. However, domestic and international drivers continue to place pressure on the industry, and flexibility is needed to allow people within the fishery to better adapt their enterprises in response to changing resources and market demands.

Over the last year, the Minister has met with people from across Canada, including the fishing industry, stakeholders and representatives from various governments. He has also visited a number of industry facilities to get a better grasp of the state of fisheries in Canada. He heard concerns about the future of many fisheries, the challenges that exist, and the opportunities for change.

As a result, in moving forward with modernizing Canada's fisheries management system, we will be guided by three principles: sustainability, stability, and economic prosperity. To this end, all policies are being reviewed with these principles in mind and examined in light of today's global economic context.

Fisheries and Oceans Canada has been formally meeting with stakeholders and Aboriginal groups since early January to discuss how fisheries management can be modernized. The amount of feedback the Department received and the broad spectrum of opinions demonstrates that change is required. This government is listening to what Canadians have to say. All views will be considered as we develop a plan for the future.

The Minister of Fisheries and Oceans values the insights and opinions of fishermen, Aboriginal groups, and other stakeholders personally invested in the industry. The Department has visited each region to discuss these issues with stakeholders, and the Minister has himself met with hundreds of fishermen over the past number of months in dozens of communities from coast to coast to coast.

AUDITOR GENERAL OF CANADA

BILINGUAL CAPACITY

(Response to question raised by Hon. James S. Cowan on December 16, 2011)

As this is personal information under the *Privacy Act*, Mr. Ferguson would have to provide his test results to the Senate directly, or provide them to the Leader of the Government in the Senate, with agreement that the information can be shared with the Senate.

Officials in the Privy Council Office have been requested to follow up with Mr. Ferguson in this regard, and request that he undertake to provide the Senate with this information, as had been indicated during his appearance.

[English]

BUSINESS OF THE SENATE

ORDER PAPER QUESTIONS—REQUEST FOR ANSWERS

Hon. Catherine S. Callbeck: Honourable senators, I would like to know the status of the government's reply on two sets of questions I placed on the Order Paper of June 7, 2011. No. 8 was with regard to the Canada Pension Plan and No. 9 related to the federal strategic review. Both of these questions had been submitted previously in different Parliaments. In fact, questions regarding the Canada Pension Plan were first placed on the Order Paper in October 2007. I would like to know when I might receive a reply to these questions.

[Translation]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, we will confirm when we will be able to answer those questions. I am not sure this should be a point of order.

[English]

ORDERS OF THE DAY

APPROPRIATION BILL NO. 4, 2011-12

THIRD READING

Hon. Richard Neufeld moved third reading of Bill C-34, An Act for granting to her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2012.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Bill read third time and passed.)

APPROPRIATION BILL NO. 1, 2012-13

THIRD READING

Hon. Richard Neufeld moved third reading of Bill C-35, An Act for granting to her majesty certain sums of money for the federal public administration for the financial year ending March 31, 2013.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Bill read third time and passed.)

STUDY ON THE PROGRESS IN IMPLEMENTING THE 2004 10-YEAR PLAN TO STRENGTHEN HEALTH CARE

SEVENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY AND REQUEST FOR GOVERNMENT RESPONSE—DEBATE ADJOURNED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: *Time for Transformative Change: A Review of the 2004 Health Accord*, tabled in the Senate on March 27, 2012.

Hon. Kenneth Kelvin Ogilvie: Honourable senators, I move that:

The report be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Health being identified as minister responsible for responding to the report.

He said: Honourable senators, it is with pleasure that I rise before you today to speak to this report and to urge its adoption.

First, I would like to thank my colleagues on the committee. I particularly wish to inform honourable senators that this report comes to you with the unanimous support of all members of the committee. In that regard, I want to specifically acknowledge the role of the deputy chair, Senator Eggleton, for his leadership and support in reaching this objective.

Honourable senators will know that this report arises from a request from the Minister of Health to this chamber that the Standing Senate Committee on Social Affairs, Science and Technology conduct the mandatory second review of the 2004 10-year health accord. We have done so. We found that there has been progress since 2004. Some of the objectives have been moved along to some considerable degree and I will perhaps identify some of those specifically. We have also clearly established that a great deal is left to be done.

At the outset, before I take honourable senators through some specific recommendations, I want to give you a very important overall observation of the committee. Witness after witness

identified critical issues in our health care system. Actually, it is health care systems.

One of the most important issues identified is that the system and systems are replete with silos. The elements within the health care industry, if I can use that term, appear to be isolated, and the term used consistently was that of a silo. It may surprise honourable senators, however, to note that witnesses, those people charged with delivering health care, consistently indicated to us that there are sufficient funds within the system, if you include the committed annual increases, to lead to an adequate health care system for Canadians, one that Canadians should appreciate. They believe that the major reason we have not moved forward arises in part because of the silo system and the fact that there has been almost a complete absence of innovation in the real delivery of health within our overall systems.

To that end, the first of our major recommendations in the report is that the annual increases committed to health care in this country from the federal government be used in large measure to identify and develop innovative practices and to distribute them across the health care system in this country. Witnesses were unequivocal in their insistence that this be a major recommendation.

As another background point, one of the major elements we identified in terms of inhibiting the development of a number of innovative practices that have been attempted is the way in which remuneration is handled within the health care system and within the Canada Health Act. It is a single model that appears to be inflexibly used within the provincial systems. This is a major inhibitor of health care delivery, particularly at the primary care level, in developing community practices that would deal more effectively with the health care of our citizens.

• (1430)

I would like to now briefly take you through some of the specific categories in the health care accord and to indicate some of the major difficulties.

The first one listed in the accord actually deals with wait times. This is an area in which there has been significant progress since the accord was first signed. Most of the provinces have achieved a 70 per cent level in terms of the objectives set in the major categories identified. However, it is clear that there are still major issues. It is critical to evaluate what are appropriate wait times, to evaluate clearly when that wait time begins, and to be able to develop adequate analyses of the achievements of these objectives for wait times.

To give you an example of recommendations, we have recommended that certain organizations that already exist and that are funded on an annual basis be directed to develop the information necessary to identify appropriate wait times and the appropriate mechanisms for evaluating. Two organizations, for example, are the Canadian Health Services Research Foundation and the Health Council of Canada, in particular that it examine best practices and make those available across the system.

A second important category of the 2004 accord is the category of health human resources. Honourable senators, I want to indicate that in many of our recommendations we see an

opportunity for the provinces and territories to work together with the federal government to bring about change. However, we see in a number of these categories areas where the federal government should take the lead in bringing these organizations together, and human resources is one of those categories. We believe that the federal government should take the lead in working with the provinces and territories to develop adequate training facilities and adequate numbers of people being trained to meet the needs of health care in Canada.

One of the critical issues is not just maintaining the existing method of training but to develop new, multidisciplinary health care training opportunities. The silo issue that was so widely identified arises largely because people are trained to operate as silos and they do not see the delivery of health to individuals as involving a number of people with different backgrounds working together.

The issue of home care is another important area that the committee identified. The committee believes indicators should be developed to measure the quality and consistency of home care, end-of-life care and other continuing care services across the country. We believe this must include ways to promote the integration of mental health and home care services.

I will not read the specific recommendations. I hope you will understand that we have recommendations in all areas that I am giving you examples of as I move through a summary of the report.

We believe there must be a development in recognition of the importance of end-of-life care. In particular, we believe that in the area of continuing care in Canada, there must be an integration of home care, facility-based care, long-term, respite and palliative care services, and this should be fully within the health care system.

We believe, honourable senators, that there must be reform in the primary care system. It is in this area specifically that the method used for remuneration of health professionals appears to be a major inhibitor of progress in these areas.

In the area of electronic medical records, in this day and age it is simply not acceptable that we have not moved further with regard to the integration of information technologies within the active practice of health care in this country. We had one exasperated professional indicate in Ontario, "I do not care that I cannot get the record from Alberta. I want to get it within my own hospital." The issue here is again largely the silo problem and individual practitioners not willing to use integrated systems.

Therefore, honourable senators, we have recommendations with regard to the achievement of these, the setting of targets, and the interoperability of information technology systems.

One of the areas where we have seen some real progress since the 2004 accord is access to care in the North, but much more needs to be done. In this area there are some examples of the

beneficial use of video conferencing and information technology; however, there is still a long way to go. Accountability measures are required to evaluate performance of health care systems in the North, and we must address inter-jurisdictional barriers that frustrate the delivery of health care in the North.

The national pharmacare system, which was one clear category of the 2004 accord, seemed to move along and blow a tire somewhere around 2006. It is not our role to ascribe responsibility; it is our role to identify —

An. Hon. Senator: What happened?

Senator Ogilvie: It blew a tire, sir, and there was no pharmaceutical available to repair it, apparently. I will not get into the mental health issues at this particular place, senator.

The national pharmacare program is an area where we have clear recommendations to get that back on track and to deal with integrating the whole issue of the dispensing of pharmaceuticals in this country, looking at the issue of dealing with rare diseases; and the issue of formularies across the country has to be looked at in terms of bringing the best cost systems to the country, and so on.

We have also recommended that there be a pan-Canadian public health strategy that prioritizes healthy living, obesity, injury prevention, mental health and the reduction of health inequities among Canadians, with a particular focus on children, through the adoption of a population health approach that centres on addressing the underlying social determinants of health.

I want to come to the section on innovation. Clearly, all those witnesses who appeared before us believe that innovation is critical to delivering adequate health care to Canadians. We believe that the governments must establish a Canadian health innovation fund to identify and implement innovative and best-practice models in health care delivery and a dissemination of these examples across the country. There needs to be an implementation and impact of the strategy for patient-oriented research. We believe that we need to work on focusing on and identifying leading practices in health care delivery and work together to promote this dissemination, and that Health Canada be charged with taking a lead in creating a network between federally funded, pan-Canadian health research organizations and other interested stakeholders.

Honourable senators, this leads us to the area of Aboriginal health, which is another area where we strongly believe equitable health care must be developed. It must take into consideration and be sensitive to the culture of the peoples concerned. We believe that removing and reducing jurisdictional barriers is critical to successful movement in this particular area.

We believe in this regard again that the federal government must work with the provinces and territories to address the social determinants of health, with a primary focus on potable water, decent housing and educational needs. Honourable senators, we are all beginning to understand that social determinants underlie a great number of the important issues that we face and need to deal with in moving society forward.

• (1440)

Honourable senators, we believe that our recommendations are pragmatic. We believe that they are doable. We believe that organizations already exist in this country through various funding models to provide the evidence needed to move these issues forward. We believe that the witnesses who argued so strongly that there is adequate funding in the system to achieve these provided that we break down the silos and introduce innovation were correct.

Honourable senators, it is essential that change occur. It must occur; and that is why the title of our report to you is *Time for Transformative Change*. Honourable senators, I hope you will join me in supporting this report.

Some Hon. Senators: Hear, hear.

Hon. Art Eggleton: Honourable senators, I am pleased to rise to join the honourable senator in support of this report and the recommendations that come forward unanimously from the committee. Senator Ogilvie has taken a moment to thank everybody who participated; and I echo that and thank him. I started this in a previous Parliament as chair of the committee. He took it over and we have worked well together, as have all members of the committee, in bringing about this result. This result is not new to this committee, which has a tremendous track record in the studies it has done and the reports it has produced; and I mention only the health care ones.

Under the chairmanship of Senator Michael Kirby, who preceded me, a major study was done. Our Leader of the Government in the Senate was involved, as were many others, in producing a wide-ranging set of recommendations dealing with health care. That was followed by a study and report on mental health, *Out of the Shadows At Last*, also under Senator Kirby's chairmanship. This report brings many elements of both of those studies together. I am very pleased about it, and Senator Seidman was particularly vocal at committee about making sure that as we integrate the various parts of the health care system, mental health must be a key part.

This seventh report, with its 46 recommendations, can lead the way toward reform of our health care system in this country to make it work better for Canadians and to bring it up to date with the current realities. Health care is not just the health care system as we know it; it is much more than that. For example, Senator Ogilvie talked about the social determinants of health and the need for our Aboriginal communities to have potable water, decent housing and proper education. All of those things affect health. In the committee's study on poverty, housing and homelessness, we found that the poorest quarter of Canadians uses twice the health care resources in this country that the richest quarter uses. There are so many other aspects of our quality of life and our way of living that come into our health care system.

The first recommendation of this report sets the tone for that transformative change. It says that whatever money we have on the table, and the federal Minister of Finance in December announced the formula for additional federal contributions to the Canada Health Transfer, should be used by and large to bring about

change, to act, as the words in the report say, as "an incentive to change." Change to what? Change as per the balance of the 45 recommendations that follow it.

I have to say clearly that through all these recommendations, I can agree with my colleague that it is not a question of more money but rather a question of innovation and trying to do better within the existing envelopes. There is \$200 billion in our health care system. We can do a much better, more efficient and more effective job and spend the money smarter. We can bring about reforms without adding a lot of money. That is quite true. What money we do add, as that first recommendation says, should be an incentive to change.

That does not mean the federal government can walk in, put the money on the table and walk away. No, it cannot do that. This report clearly says that the federal government is integral to this entire system and that it must be part of the collaboration with the provincial and territorial governments. Throughout this report, you will see recommendations for the federal government with the provincial and territorial governments, or you will see suggestions that the federal government take the lead in a number of areas. It clearly has to be a collaborative effort by all levels of government. Breaking down silos within the health care systems is also key.

The committee was mandated to do this statutory review as a result of the 2004 health accord. This is the second review, the first one being done by the House of Commons Standing Committee on Health. This is the last review before the expiry of the accord in 2014; therefore, it is a significant review. While we could take a lot of time to examine in detail the review, I recommend that you read it in the report. You will see some successes and some failures, and you will see some part successes and part failures.

The first section deals with wait times. There was a fair bit of success in the area of wait times, in particular with respect to cancer, heart, joint replacements and sight restoration, where they accomplished a lot. They did not get diagnostic imaging worked out as they could not find the right criteria or benchmarks in that regard. However, they did move the ball along a lot in terms of accomplishments in the area of wait times.

We found that a couple of things were lacking. First, there are many speciality areas, other than the ones I mentioned, that need attention; and second, from what point were they measuring that wait time? It turns out they were measuring it from the time that it was determined someone needed a surgical procedure. Some people asked about the wait time to see a family doctor. For those who do not have a family doctor, it takes extra time. What about the wait time between then and when you actually see the specialist? Things like that need to be improved upon so that we have a better national measurement that is pan-Canadian and that people can relate to. Certainly, this issue produced a fair number of reports, and a lot of federal money — \$5.5 billion — went into reducing wait times.

In terms of human health resources, we are suggesting a federal lead with respect to an observatory so we can determine our health professional needs in the various parts of the country. Today, we have more people in health care practice than we had at the beginning of this exercise in 2004; but in some rural, remote and Aboriginal areas, we are still lacking. People who are foreign-

educated and -trained are not getting into the health care field as fast as they should, even though a mechanism has been put in place by the federal government to do that. It needs more attention.

We have also said that in the development of health care professionals, universities and colleges need to increase inter-professional training of health care practitioners to develop multidisciplinary teams to have not only the family doctor but also nurse practitioners and people in mental health care, et cetera, as a key part of primary care reform. Developing multidisciplinary teams of health human resources requires starting with educational systems to try to bring them closer together. Here, again, there are too many silos.

• (1450)

I will try to move quickly and not cover some of the areas that my colleague has. When it comes to electronic health records, this is a case where a lot more progress could be made. We have to start with the doctors, themselves, having their own electronic medical records, or EMRs. We still have a bit of way to go with that. That is just a doctor having them within their own office, however, there are the other health care professionals and the relationship to hospitals and pharmacies. Electronic medical records have a long way to go in terms of development. There are issues of privacy and of one system talking to another so that they can properly integrate them. There is a lot more work that needs to be done in terms of electronic medical records.

As for access to care in the North, again, we have to bear in mind that in those remote and rural areas it is very difficult to get the physical attention that they need from doctors or nurses. Telehealth will continue to be important there and that must be developed.

The National Pharmaceuticals Strategy, as I think my colleague said, dropped off in 2006. I will not mention what happened in 2006 around this place, but that program needs to get back on the rails. We have suggested a national pharmacare program with principles of universality and equitable access for all Canadians, including a national catastrophic drug coverage program and a national formulary. This needs to be put back in place and given the kind of emphasis that the committee suggests.

The next section is prevention, promotion and public health. This is where we need a lot of new attention because it is where a lot of savings will come from. An ounce of prevention is worth a pound of cure; the old adage still applies. Tackling issues such as obesity, trying to cut down on chronic diseases, promoting healthy lifestyles, dealing with the social determinants of health and dealing with injuries, particularly to children, all cry out for more preventive action, which can save a lot of the money in the system which could be used to bring about a lot of the reforms that we have talked about in this report.

In terms of health innovation, a key thing is that we have asked the federal government to take the lead in working with the provincial and territorial governments to establish a health innovation fund. Innovation is where we will make the changes. Let us have this innovation fund to help spread good practices

and to identify practices that can be improved upon and can bring about a spreading of these reforms throughout the health care system.

Honourable senators, let me also mention home care because, again, home care is an area for which we have to develop as strategy in a pan-Canadian context. We have recommended that — a pan-Canadian home care strategy — including a focus on reducing the burden faced by informal caregivers. We all know about helping our family and friends by being informal caregivers and the kind of burden that places on so many people and so many families. We learned a lot at the committee about autistic children, for example, and how they need various supports. Rest and respite care are part of all of this.

We have also suggested that we must further enhance the palliative care area in terms of services provided in the home to help people to pass into that final stage of their life with some dignity and a minimum amount of pain. We need more infrastructure in terms of residential hospices. If a person cannot be at home for their last days, then these residential hospices have proven to be quite beneficial where they have been established. However, there is still a need for a lot more of them.

A final point we make about home care that applies right across the board is the integration of these systems. We need to have a continuum of care. We need to have an integration of home care facilities, long-term care facilities, palliative care facilities, acute care facilities and the other aspects of this entire system.

There needs to be a breaking down of silos and a better integration of all of them.

I think I will stop there, honourable senators. There is so much more in the report, but I would invite you to have a good look through it because this is an issue of our time. It is a very key issue for Canadians, and this committee has worked well together to bring forward this set of 46 recommendations to help make it better for Canadians, to help bring it up to date, to make it more responsive to our needs, and to be able to do it within a reasonable financial framework, as long as we carry out innovation in the system. Thank you very much.

Hon. Nancy Greene Raine: Honourable senators, I would just like to say a few words about this report because I agree that we are at a transformational point. We know that health care issues are going to be one of the biggest challenges facing us as we move forward and that there are a lot of specific issues, such as demographics, combined with an increasing level of obesity in children.

I wanted to bring to the attention of honourable senators that a report was released yesterday by ParticipACTION and the Canadian Society for Exercise Physiology which has outlined, for the first time ever, physical activity and sedentary behaviour guidelines for the early years. These are the years from infancy until the age of five years. One of the things that the research has shown is that it is not only physical activity that is necessary, but it is a curtailment of sedentary activity.

I know this has been distributed to the offices of all honourable senators. I recommend that we all take a look at it and work together, on both sides of this house, to put forth every effort we can to change behaviour and create a young, healthy population from birth all the way up.

Thank you very much for the work the committee is doing on this.

Hon. Wilfred P. Moore: Honourable senators, this is a very important report, and I want to commend the chair, the deputy chair and the committee members for the work they did here and for separating the disciplines of health and healthy living versus health care, that is, the care you need upon not looking after yourself or if you have become afflicted with some condition.

I would like Senator Ogilvie to comment on this: He mentioned twice in his remarks that the way remuneration is handled within the provincial systems is an inhibiting factor. Could he comment a little further on that just to get something on the record here?

Can you not use my time?

Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker): It is on his time.

Senator Moore: It is on my time.

Senator Ogilvie: May I ask a question?

The Hon. the Acting Speaker: Yes.

Senator Ogilvie: The honourable senator has raised an important matter, and I wonder if I might ask him a question with regard to the issue he has raised on remuneration. Has the honourable senator thought about the fact that the way in which remuneration occurs now is largely a bill-payer issue from an individual practitioner for services rendered to an individual patient for a single visit?

• (1500)

I wonder if the honourable senator had considered what would happen if a few colleagues at the family physician level got together and were to run a clinic, and then decided if they had a nurse practitioner and a nurse along with them that they could actually treat patients much more fully in one stop. Then, perhaps — if they had limited testing capability within the clinic — they could see the patient immediately, deal with a relatively easy medical issue in one stop, and send the patient away having been treated overall and received the benefit, moving on to full health.

Did the honourable senator consider that such an organization would not be able to bill for that overall health service? The provincial governments have appeared to have been largely inflexible in terms of recognizing a willingness to use different models of remunerating the delivery of health care service, even within the Canada Health Act.

I wonder if that is what the honourable senator was considering when he raised his point.

Senator Robichaud: Very good question.

Senator Moore: That is a wonderful question, honourable senator. I did not think of all those things. In the honourable senator's example — with regard to a clinic and physicians

working in a clinic with the backup of nurse practitioners and nurses — he says they are not able to bill now. I do not understand how that works, but maybe the honourable senator could tell us about that.

Senator Ogilvie: Honourable senators, in raising this supplementary question, I wonder whether Senator Moore is considering whether it is possible for provincial health care systems to recognize such a billing system, or whether it is simply a question that they have been unwilling to recognize such possibilities. We heard there was very clearly inflexibility at the decision making level in this area.

Once again, I would ask the honourable senator, is that the nature of the question he was putting?

Senator Moore: Honourable senators, it is. I must say, I am surprised at the response. I had hoped that the report of the honourable senator's committee would lead to some resolutions of that inhibiting factor because it would clearly save money and be of benefit to the patients who we are hopefully trying to serve.

(On motion of Senator Callbeck, debate adjourned.)

[Translation]

EDUCATION IN MINORITY LANGUAGE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Losier-Cool calling the attention of the Senate to the evolution of education in the language of the minority.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I informed my honourable colleague, Senator Comeau, that I would be speaking today. I move that, at the end of my speech, debate be adjourned in his name.

Honourable senators, I rise today at the invitation of Senator Rose-Marie Losier-Cool, who encouraged us to participate in a debate on the inquiry on the evolution of education in the language of the minority. I would like to thank our honourable colleague for this excellent initiative.

I will be talking about a part of the history of my community, the Franco-Albertan community, as I recount the story of its struggle to access education in French. This narrative continues to unfold and is at the heart of the very identity of my community and has deeply affected me throughout my career.

It is the story of the struggles and the perseverance of a community that understood that schools are vital to the survival of its culture and its language, as well as to the personal development of its members. These past struggles have made it possible today for more than 5,000 Franco-Albertan students, including my own school-aged grandchildren, to receive an education in their own language. I would like to remind you just how difficult this journey has been.

I will give you some historical dates as reference points and will divide the time covered by my speech into five periods: first, the period before 1892; second, the period after the 1892 legislative changes; third, the period after the 1925 ordinance; fourth, the 1960s and 1970s; and last of all, the period after the enactment of the Canadian Charter of Rights and Freedoms in 1982.

The first French schools were established in Alberta in the 1860s by Catholic missionaries. At the time, Alberta was part of Rupert's Land, which was under British control. However, Rupert's Land was administered by a private company, namely the Hudson's Bay Company, which practised bilingualism out of respect for the anglophone and francophone communities that were quite present in the territory.

French was the first European language spoken in the territory. More than 500 French names still connect Alberta to its francophone roots: Morinville, Legal, Bonneville, Jean-Côté, Fahler, and so on. They underscore the contribution of the first francophones to the development of Alberta.

The church, including the Oblate Fathers and the Grey Nuns, played an important role in the development of Western Canada. The Grey Nuns, a congregation of Catholic nuns from Quebec, established their first school in 1859, in Lac Ste. Anne, and a second one at the Lac La Biche mission three years later. That same year, in 1862, Father Albert Lacombe established a school in Fort Edmonton. These three schools marked the beginning of French Catholic education in Alberta.

In 1870, the vast territories in Western North America, including Rupert's Land, were transferred to Canada and called the North-West Territories. Under the North-West Territories Act of 1875, a public school system was set up. The act allowed religious minorities, be they Catholic or Protestant, to establish separate schools funded independently through a tax. Since Catholics at the time were francophone for the most part, the legislation fostered education in French. It allowed for the establishment of separate Catholic schools and school districts where French was the language of instruction.

Honourable senators, as history classes remind us today, at the turn of the 20th century, the people who developed Western Canada had a vision for the country that was British and English. They did what they could to make that vision a reality, including developing an immigration policy and bringing in legislation and regulations that made English the mandatory language. An 1892 ordinance changed the existing education system and made English the official language of instruction in all schools in the North-West Territories.

The use of French as a language of instruction was no longer permitted in public schools as of 1892.

• (1510)

However, legislative changes made in the early 20th century allowed for the use of French in primary courses when the students did not understand English. More specifically, the legislative changes ensured that any school board could authorize the limited use of French during a year of primary school and could raise the money needed to pay the teachers' salaries.

The time allocated for primary courses varied from half an hour to an hour or more per day, and each school's schedule had to be approved by a school inspector. Since French was not a mandatory subject and there were no French exams, anglophone inspectors did not hesitate to reduce the time spent on teaching French.

That is how things were when my maternal grandparents raised their children. Rosario and Ernestine, who were both from Quebec, moved to Alberta, where they met at the beginning of the 20th century. They did not speak English when they arrived in Alberta, yet they had to raise their children in an anglophone community with very little institutional support to help them maintain their French language and culture. None of their children received an education in French.

In addition, once the children started school, they were made fun of by the other children and even sometimes by the teachers because of their French accents. That being said, all of Rosario and Ernestine's children and most of their grandchildren kept their mother tongue, but there is no doubt that this was a major challenge. Their story is similar to those of many other francophones, particularly the many French-speaking immigrants, mainly from Quebec, who moved to Western Canada in the late 19th and early 20th centuries.

In 1925, in response to lobbying by the francophone community, new ordinances were issued with regard to French primary courses. From that point on, if the school board allowed it, francophone students could go to school in French for the first two years of their education, with the exception of one English reading class. However, as of grade 3, students were unable to receive more than one hour a day of instruction in French.

Despite the 1925 ordinance, many teachers offered bilingual instruction only in grade 1, whereas others started teaching in French at the beginning of the year but then quickly changed to English. In addition to the fact that the law placed considerable limitations on teaching in French, the so-called bilingual schools also faced pressures that caused some school boards and teachers to put more focus on teaching in English.

First, the inspectors who evaluated subjects taught in English tended to associate poor academic performance with the fact that students were learning French. When the inspectors reported to board members, that allowed them to justify the need to dedicate more time to teaching English.

Another problem resulted from the beliefs of many francophone parents. Some believed that strong knowledge of English would help their child become successful, and others questioned whether French was even useful in an anglophone setting. In addition, schools had to cope with a constant shortage of bilingual teachers.

Following the 1892 ordinance, francophone Catholics were no longer allowed to train and certify their own teachers, and teachers' colleges in Alberta did not offer teacher training courses in French. School boards tried to recruit Catholic teachers from Quebec, but Alberta's education ministry refused to recognize their teaching certificates.

So board members who wanted to keep their schools open often had to hire non-francophone teachers. Under the circumstances, the private school system was one of the survival tools that Franco-Albertans developed. Edmonton's Collège des Jésuites was established in 1913. The Académie Assomption for girls was established in 1926 by the Sisters of the Assumption. In 1908, the Oblates of Mary Immaculate established the Juniorat Saint-Jean for young men, which became known as the Collège Saint-Jean in 1943 and is now the Faculté Saint-Jean, a francophone university campus that offers a number of undergraduate and graduate degrees and where I once served as dean.

I myself had the opportunity to receive the majority of my schooling in private institutions, first with the Grey Nuns, then at Académie Assomption. These institutions were required to teach some school subjects in English, and they had to follow the provincial curriculum. However, I was taught by francophone nuns in a francophone environment. The private school system played a fundamental role in the preservation of the French language and culture for many Franco-Albertans like me.

However, francophone families that wanted to educate their children at private institutions had to make sacrifices. For instance, in my case, my parents were forced to bear a significant financial burden so I could attend such schools. Furthermore, I had to leave our family home at age six in order to go and live in a convent to learn French. In addition to those obstacles, these private institutions — which only boys could attend initially — were not accessible to everyone and were more likely to meet the needs of the elite.

In addition to private schools, I would also point out that, throughout the 20th century, the political fight for French schooling was spearheaded primarily by the Association canadienne-française de l'Alberta, which remains to this day the central organization in the Franco-Albertan community. Educational support was provided by the Association des instituteurs bilingues de l'Alberta, founded in 1926, then by the Association des éducateurs bilingues de l'Alberta as of 1946.

Prior to 1965, Alberta's Ministry of Education provided no pedagogical support for the teaching of French, so those associations oversaw curriculum development in French and the development of cultural activities. All of this work was carried out by volunteers, often on Saturdays and Sundays.

It was not until the 1960s and 1970s that changes were made to the provincial legislation to allow teaching in French. In 1968, education legislation was passed to permit French-language instruction for up to half the school day, and up to 80 per cent of the school day in 1976. These changes were motivated by the growing popularity of French immersion programs across Canada in the 1970s. Thus, by the end of the 1970s, for all intents and purposes, francophone students in Alberta could now be educated in their own language. However, the government made no distinction between francophone and anglophone students, who were grouped together in the same classes.

Accordingly, between 1968 and 1982, a growing number of young anglophone and francophone students were in the same classes in immersion programs. Until the end of the 1970s, it was

widely believed in Alberta that the French immersion program was beneficial for francophones. Thus, there was little opposition to allowing francophone and anglophone students to go to the same schools, and sometimes even to be in the same classes.

Unfortunately, this experience demonstrated that immersion schools served as a vector for francophone assimilation, since those schools had not been intended for students whose mother tongue was French, but rather for students whose mother tongue was anything but French.

• (1520)

In this context, a number of parents and stakeholders believed that the French immersion model did not meet the specific needs of students whose mother tongue was French.

In order to stop assimilation and reinforce the francophone cultural identity, Franco-Albertans called for their own schools, schools that would specifically serve the francophone community. In 1982, a group of francophones from Edmonton known as the Bugnet group asserted that the Charter of Rights and Freedoms, which had just been enacted, gave them the right to separate French-language education. The Bugnet group took the provincial government to court, claiming that it was depriving them of legitimate rights guaranteed by section 23 of the charter. This was the beginning of a long journey that ended at the Supreme Court of Canada in 1990.

At the same time, in the 1980s, another association, the Société des parents francophones pour des écoles francophones à Edmonton — of which I am proud to have been a member — was established in Edmonton. While the Bugnet group was focusing its efforts in the legal arena, our association was pressuring the Edmonton Catholic School Board to set up publicly funded French Catholic schools. In 1984, our efforts began to produce results, with the opening of two French public elementary schools, one in Edmonton and the other in Calgary.

However, francophones still did not have a separate high school. The Société des parents francophones continued to lobby. It organized meetings, petitions and visits to administrators and politicians. In 1988, parents even occupied the offices of the Edmonton Catholic School Board for two days. That same year, the school board finally established separate programs for francophone high school students in Edmonton.

In March 1990, the Supreme Court of Canada ruled that the Alberta School Act was inconsistent with section 23 of the charter and ordered the provincial government to revise its legislation. The court confirmed the right of francophones to have their own schools and independent control over those schools. In March 1994, the Franco-Albertan community held its first French school board elections in a number of regions in the province. It was an historic moment in the fight for French-language education, and it came more than 100 years after English was imposed as the mandatory language of instruction for francophones.

Honourable senators, I will close by saying that the past 30 years have been full of changes in education for the francophone minority in Alberta. Today, there are five French school boards in Alberta that cover more than 40 schools and 5,000 students.

These changes are the result of lengthy legal and political battles. These efforts brought about not only the establishment and control of separate French schools, but also an awareness, a pride and a greater confidence among Franco-Albertans. Today, the French schools are the cornerstone of a flourishing community that continues to fight assimilation, welcomes more and more French-speaking immigrants and defends the recognition of its language rights.

Hon. Pierre Claude Nolin: I want to thank the senator for her speech, which brings me to my question. A few years ago, a Franco-Albertan called on the Government of Alberta and the Government of Canada to recognize the ancestral rights of the French-Canadians who were living in Alberta when Alberta joined Confederation. In the little bit of time remaining, I would like the senator to explain to us the status of that case, which I feel is extremely important for the francophone community of Alberta.

Senator Tardif: I want to thank the honourable senator for that important question. The Caron case is still before the courts. The Alberta government does not accept Mr. Caron's arguments. I believe that with the proper funding, this is a case that could go all the way to the Supreme Court of Canada.

I mentioned Rupert's Land. At that time, Queen Victoria allegedly made promises that recognized the rights of francophones in practice and in tradition. When Rupert's Land was sold and that land was transferred to Canada and became the North-West Territories, that promise did not change. Now, a professor — from Campus Saint-Jean at the University of Alberta, in fact — has found archived documents that show Queen Victoria's commitment to the bilingualism that existed at the time.

Hon. Gerald J. Comeau: Honourable senators, I would first like to commend the senator for her excellent speech, for her commitment to her francophone community in Alberta and for her recognition of the excellent work done by her community to preserve the French language in Alberta.

That being said, I too would like to have the opportunity to speak about the achievements of the francophones in Nova Scotia, particularly the Acadians, and the things they have done to preserve their language and education in their province. I therefore move the adjournment of debate for the remainder of my time.

(On motion of Senator Comeau, debate adjourned.)

[English]

POVERTY

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Robichaud, P.C., calling the attention of the Senate to the issue of poverty in Canada — an issue that is always current and continues to have devastating effects.

Hon. Hugh Segal: Honourable senators, I rise to speak to the inquiry advanced by our colleague, Senator Robichaud of New Brunswick.

[Translation]

I would like to express my thanks and my deep respect for his commitment to this issue. As a member of Parliament in the House of Commons and as a senator, he has always been a strong advocate for the interests of everyone in his riding, his province and Canada, both the haves and the have-nots, and he has always advocated in a straightforward and very enthusiastic manner. I respect him for the work he has done and for this study, which is very important for us as citizens of Canada.

[English]

As we sit here today, between the budget that just came down in the Province of Ontario and the budget that is about to come down in the other place tomorrow, I think it is of value that we reflect on the implications of public policies and how they affect the day-to-day lives of the people who are the most disadvantaged amongst our fellow Canadians. Ten per cent of Canadians live beneath the poverty line. That is now in excess of 3 million men, women, and their children, people for whom life is not a series of choices about which college to send their kids to, which summer camp to sort out, whether to be part of the fashion season, or whether to go to the theatre; their choices are more direct. Do you pay the rent? Do you pay the heat? Do you buy your necessary pharmaceuticals? Do you buy fresh food? Do you have any money left over for clothes for your kids?

• (1530)

The truth of the matter is that the single-most expensive public policy mistake any government can make — government of the left, government of the centre or government of the right — is to not work at reducing the number of people who live under the poverty line. Why is that? If we are concerned about the cost of health care, what we know about those who live in poverty is that they get sick sooner, stay in hospital longer, and die earlier. The fancy term for this is “morbidity and mortality.” The bottom line is: They get sick more intensely and more quickly, and they die at a much younger age than those who are not disadvantaged. Imagine that.

Imagine, honourable senators, having before us a public policy option of reducing the number of people who live under the poverty line, thereby taking the pressure off our health care system and off our prisons. Why would it be that in the great city of Kingston, where we have seven federal and provincial prisons within a 50-mile radius of the downtown area, 10 per cent of the population live below the poverty line and generate 94 per cent of Her Majesty's guests in those institutions?

Do honourable senators know what it costs to keep one person who has been found guilty of an offence? At a minimum, it costs \$70,000 to \$80,000 per year. High security costs \$140,000 to

\$150,000 per year. What would it take to lift most people from below the poverty line to above the poverty line? It would take \$15,000 per year.

If one is a right wing Conservative who wants to save money and protect the taxpayers, then investing in reducing the number of people who live under the poverty line is the most efficient expenditure one can make. All of the pathologies which we know are so counterproductive — leaving school early, family violence, unemployment, illiteracy and family breakup — are made worse by poverty.

If we had all the money in the world, if we could print the money without regard to where it came from and triple our federal and provincial budgets, we would not have enough money to deal with all those other issues. However, we do have enough money to deal with reducing poverty. It would be the one instrument that federal and provincial governments could work on together.

I want to pay tribute to the honourable senators who worked so hard on the report on health care that is before us, *Time for Transformative Change*. It is a piece of work that brings credit to this entire institution and will be of great value. The fact that it is unanimous speaks to how well we can work together in this place on things that really matter for Canadians.

The report references the social determinants of health, specifically the problem with our brothers and sisters among First Nations. However, the truth of the matter is that the social determinants of health — namely poverty — are as bad among low-income people everywhere as they are among low income people in our First Nations, with one exception: whereas the incidence of poverty among non-First Nations is at 10 per cent, in many parts of Canada the level for our First Nations brothers and sisters is at 15 per cent to 30 per cent, if not higher.

We looked at poverty in rural Canada when Senator Fairbairn did an outstanding job as Chair of the Standing Senate Committee on Agriculture and Forestry some years ago. It was an honour to have my first committee assignment under her leadership. We found that in rural Canada the poverty numbers are worse, and they are silent and hidden. At least in the cities, an infrastructure that includes food banks and various agencies and organizations provides some measure of support. In rural Canada, there is little public transit, which makes the situation far worse. The isolation makes it even more difficult to deal with.

Honourable senators, there are not many areas of public policy that generate a broad range of support from left, right and all the major political traditions. Not one issue would group Richard Milhous Nixon, Daniel Moynihan, Winston Churchill or Donald S. Macdonald, the former Liberal Minister of Finance, Minister of Defence and Chairman of the Royal Commission on the Economic Union and Development Prospects for Canada appointed by the Right Honourable Pierre Elliott Trudeau, who made his report to the Mulroney administration which followed thereafter. Every single one of those people, as well as the Right Honourable Robert L. Stanfield, took the position that we can do a better and more efficient job of dealing with poverty than we are doing. They were all in favour, in one way or another, of a guaranteed annual income, a basic income floor or a refundable tax credit — call it what you like.

They asked this question, and I ask every honourable senator this same question: Why would it be that when we had seniors living in poverty in Ontario in 1975, under a minority Conservative government, that our friends in the Liberal Party and in the NDP at the time passed a motion at the Standing Committee on Social Policy that the minister's salary be reduced to \$1 and that the deputy minister's salary be reduced to \$1, which they had the power to do? We found out that our opposition friends were going there because of the stories of senior women, whose husbands had left no pension or savings, who were buying dog food and cat food to add a little bit of protein to their diets on a meagre income. That was not a creation of the *Toronto Star* — and, God knows, they are capable of the odd creation over time — but that was hard reality. Once that was found out, three and a half weeks later the Honourable W. Darcy McKeough, in his pin-striped suit, tie and Toronto club cufflinks, rose in his place and announced a guaranteed annual income supplement for all seniors in Ontario. There were no special applications, no new welfare programs and no interviews across glass dividers about how poor they were and how they could prove it. They were seniors and they had built our province. They had the right to a basic income level with decency and honesty. Within two years, the rate of poverty among that population went from 30 per cent to 3 per cent. The idea caught on across this great country, and the federal government brought it in.

Today, the OECD says that Canada is among the top five in keeping our seniors out of poverty. We perform better than many other countries, but for working-age people, we are down around number 20. It is as if we have decided, like they used to in the 17th and 18th centuries, that “the poor are always with us.” There is nothing we can do; it is a like a blight; and we just have to live our way through it. Did Tommy Douglas say that about people who were sick and could not afford health care? He did not say that. Neither did Mr. Justice Emmett Hall, nor John Diefenbaker, nor Mike Pearson. They said that we could do better and we did better as a country.

I believe that unless we are prepared to confront the real cost of poverty, on which the National Council of Welfare did an excellent report, and unless we are prepared to confront the lives we destroy, the communities we weaken, and the economic productivity we diminish, and deal with the poverty issue straight up by taking the position that no one will live in poverty in this country, then we will be weakening our social infrastructure and diluting our economic prospects. We will be impoverishing our health care system when the demographic bubble hits and many people, simply by virtue of advanced years, are in greater need of support from the health care system because the amount of the space in that system now being taken up by low-income people who have nowhere else to go. They do not have a general practitioner or a friend who can get them in to see a specialist a little sooner. They do not have any of those options. They show up at the emergency ward, the single most expensive place in our entire system within which to give primary care. My colleague, the physician across the way, understands more than most.

• (1540)

That is our challenge, and this inquiry is a great opportunity for colleagues to address how we can advance the case. I have no knowledge of what will be in tomorrow's budget, but I give credit to the government for expanding the WITB, the Working Income

Tax Benefit, program over the years. It was brought in by the present government to encourage low-income people who are working to stay in the workforce by allowing them to keep more of what they are earning. That is good, but it is not enough.

The question I put to you is as follows: Why can we not learn from the experience in a place called Dauphin, Manitoba? In Dauphin in 1976 — with Pierre Elliott Trudeau as the Prime Minister of Canada and Ed Schreyer as the Premier of Manitoba — there was a federal-provincial test. A rural community that had to face the vagaries of good crops, bad crops, good wheat prices, bad wheat prices got a guarantee. The guarantee was that no one would fall beneath the poverty line: At the end of year if the crops are bad and there is a variation in prices, we will protect you. Not a lot of money was spent. Only 17 per cent of the community ever drew a penny from that program. Guess what? Now there is an academic with a CIHR grant looking at the outcomes. Everyone benefitted.

Here is what happened in that community during those five years: Arrests went down; admissions to hospitals went down; car accidents went down. When you remove the stress of not knowing if you can pay the rent, not knowing if there is going to be food on the table for your kids, it is amazing how people are dominated by the better angels and the better opportunities and not the pathologies of poverty.

Not only did they find out how much money could be saved in our health care systems, but they dealt with the disincentive concern you hear about. I call it the “beer and popcorn allegation.” If you give poor people money they will have no incentive to work — as if living on welfare, which in every Canadian province is 18 to 20 per cent beneath the poverty line, is where anybody wants to be.

I ask for five minutes.

The truth of the matter is that this is a reality we have seen in other countries. Prince William is the patron of a charity in the big cities of the United Kingdom called Centrepoint to help people who live on the street. He and the people who work in that charity — he slept on the street himself several times without security present — took on this proposition of saying you cannot trust poor people to do the right thing with money, as if by virtue of fact they are poor they cannot figure out what is important. We have the welfare systems which are the swells telling the lessers how they will live. That is what welfare is: spouse in the house and all those interesting questions that we see, people appearing before glass wickets to argue for how much they need to feed their kids.

In the United Kingdom, Panorama asked what would happen if we gave you 700 pounds a month. Some would rent caravans they can plug in at a trailer park to have heat and a warm place to sleep. Others would buy winter clothing or try to rent a room. The number of people who would spend the money on things we might find inappropriate like alcohol and drugs was less than 7 per cent.

A core message that I hope we can take from this wonderful inquiry put forward by Senator Robichaud is as follows: A decent human condition is not just the preserve of those who are wealthy. The right to have a life of choices and decency and family is not

just for those of us who may be a bit more fortunate than others. It is the right of everyone. I say this as a Conservative because I believe that if we are going to have a society of freedom and order, order implies a basic fairness and decency for all our fellow human beings. If we are not prepared to do that, then we should prepare ourselves for all the excess costs of young people with no work coming from families with no prospects being told that drugs or violence or crime is actually better than having no prospects at all.

We can do better, colleagues. I thank Senator Robichaud for the leadership in his inquiry, and I hope we can do our best wherever we have influence. There are people in this chamber who may have influence in the other place to fight hard for this kind of progress. We can afford it, we can do it, and the federal government has the capacity with the provinces to show collective leadership on this issue.

Thank you, colleagues.

(On motion of Senator Callbeck, debate adjourned.)

LITERACY

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck, calling the attention of the Senate to the importance of literacy, given that more than ever Canada requires increased knowledge and skills in order to maintain its global competitiveness and to increase its ability to respond to changing labour markets.

Hon. Catherine S. Callbeck: Honourable senators, I introduced this inquiry because I believe that helping Canadians to improve their literacy skills should be a national goal.

We will all gain from progress in this area. It will mean increased productivity in our economy, and better quality of life for Canadians and communities with more active and involved members.

First, I want to commend Senator Fairbairn for the work she has done on the issue over the years. She has provided outstanding leadership on literacy and has fiercely advocated for improved literacy programs and services across this country. I have long been impressed by her passion and desire to make sure that all Canadians have the necessary basic skills to improve their lives. Thank you, Senator Fairbairn.

I also want to commend Senator Demers for the work that he has done and is doing to bring attention to Canada's literacy deficiencies. He has spoken many times about what it is like to not have the literacy skills a person needs in day-to-day life. He shares his story in the hope it will help others. He has become a real role model for the benefits of learning.

We all know people who have been held back because of a lack of literacy skills. I think of the senior who told me when he wanted to talk to a certain person that he had to drive to that

person's home because he simply could not read the phone book to get his number, or the gentleman who attended church every Sunday and when a hymn was announced he would open the hymn book and hope that no one would notice that he did not have the right page and that he could not read the lyrics.

We all have similar stories. More than 40 per cent of working-age Canadians, those aged 16 to 65 years, have low literacy skills. In fact, when we include seniors the percentage rises to 48 per cent. That means that nearly half of Canadians have low literacy skills. They have trouble coping with the demands of everyday life and work.

• (1550)

The problem most face is comprehension. People with low literacy skills may be able to read the words on the page, but they cannot understand them. True literacy is much more than the basic skills of reading. It includes the ability to analyze, to understand and to apply what has been read. The Canadian Council on Learning released a report in 2008 entitled *Reading the Future*. The projection for the year 2031 is that the percentage of people with low literacy skills will still be at about 40 per cent unless something is done, but the actual number of adults with low literacy skills will go up from about 12 million to about 15 million. This is mainly due to an overall increase in population, an aging population, increased immigration, and skill losses that can occur over a lifetime.

The increased number of people with low literacy skills will have a profound effect on the country in many ways. As I have noted in the past, research shows that there is a strong relationship between literacy skills and social and economic issues, like health, productivity and crime. On an individual level, low literacy skills have been linked to poor health outcomes. People can be ill more often, and they might experience more workplace accidents and more missed medications, and even die younger. Studies also show that people with low literacy skills are apt to have low employment rates. They tend to work fewer hours at a time and fewer hours during the week.

They find themselves unemployed for longer periods, and those periods happen more often.

There is even a correlation between literacy levels and crime. Seventy-five per cent of Canadian offenders have low literacy skills. Thirty-six per cent of them have not completed grade 9. According to the Correctional Service of Canada, the average educational level of a person entering a federal facility with a sentence of two years or more is grade 7. Studies show that participation in prison-based literacy programs can help ensure inmates do not reoffend. Increased literacy skills can even help build self-confidence and encourage higher levels of involvement in community groups and volunteer activities.

Nationally, adult literacy levels have a tremendous influence on the growth or decline of the country's economy. The C.D. Howe Institute stated that Canada could see a 2.5 per cent rise in labour productivity and a 1.5 per cent rise in per capita domestic product, the GDP, if we increased our overall literacy skills by

1 per cent. If you put that into dollar figures, a 1 per cent increase in Canada's literacy rates could boost the national income by a huge \$32 billion.

A highly literate workforce can help a business become more efficient and competitive. It can increase workplace safety: Understanding safety regulations and procedures can prevent injuries. Everyone wins.

For all the reasons I have outlined and others, we need to increase our efforts to raise literacy levels across the country.

There are many ways that this can be done. The federal government could, for example, through its Labour Market Agreements, target funding to workforce or workplace literacy initiatives. Government could provide incentives to small and medium-sized businesses that sometimes lack the capacity, funding and time needed to provide literacy and other skills training to employees.

The benefits for both employee and employer far outweigh the costs. Improved customer service translates into higher profits. Positive, engaged employees mean increased productivity. Employees are healthier and more skilled, and a company increases its competitiveness. It has been shown that the rate of return can be tremendous.

The federal government can also ensure that the literacy and language training needs of immigrants to Canada are given a high priority. Canada is relying more and more on its immigration population to fill gaps in the labour force. We need to focus more on literacy issues facing newly landed immigrants to help them adapt and integrate into society more quickly.

Even though we all recognize the value of education, there is still a general lack of awareness of the literacy challenges Canada faces. Many Canadians are really shocked to hear that 40 per cent of Canadians lack the literacy skills to fully participate in the workforce and in life. Many of that 40 per cent would be surprised to learn that they have a literacy problem at all. The federal government could work with stakeholders to develop and implement a national public awareness campaign that stresses the importance of acquiring the literacy skills needed to find and keep a job and have a productive life.

Too many people of all ages and ethnic backgrounds lack the literacy, problem-solving and communication skills they need to enjoy a better quality of life. Without a doubt, improving these skills would have real benefits to individuals and to society. That is why I introduced this inquiry, and I hope that honourable senators will take the opportunity to give their input on how we can raise literacy rates in Canada. Today more than ever we must work to keep literacy high on the crowded agenda that faces our nation. We need to encourage workplace training, literacy and essential skills programs. We need to encourage Canadians to keep updating their skills through their whole lives. By improving literacy levels across the board, we can improve everyone's quality of life and strengthen the Canadian economy at the same time.

(On motion of Senator Tardif, debate adjourned.)

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO STUDY THE EVOLVING LEGAL AND POLITICAL RECOGNITION OF THE COLLECTIVE IDENTITY AND RIGHTS OF THE MÉTIS

Hon. Gerry St. Germain, pursuant to notice of March 27, 2012, moved:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the evolving legal and political recognition of the collective identity and rights of the Métis in Canada, and, in particular on,

- (a) the definition, enumeration, and registration of the Métis;
- (b) the availability and accessibility of federal programs and services for the Métis; and
- (c) the implementation of Métis Aboriginal rights, including those that may be related to lands and harvesting; and

That the Committee submit its final report no later than June 30, 2013, and that the Committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

Hon. Claudette Tardif (Deputy Leader of the Opposition): I have a question.

In the spirit of the debate that my honourable colleague and friend Senator Comeau put forward, could Senator St. Germain give us a few more details about the proposed study and whether this would include any travel?

Senator St. Germain: Yes, definitely. I will try to give the honourable senator whatever information she would like. It does include travel. It will include travel into the Northwest Territories, northern Alberta, where the Metis communities are, Manitoba, Saskatchewan, and British Columbia. We planned on a trip into the Sault Ste. Marie area, towards Lakehead, but that will be fact finding. The committee will only be travelling, as a committee, into Western Canada, and it will also be fact finding in the Labrador area.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO STUDY EAST AND WEST COAST NAVY AND AIR FORCE BASES

Hon. Pamela Wallin, pursuant to notice of March 27, 2012, moved:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on Canada's east and west coast navy and air force bases; in

particular the committee shall be authorized to examine the capabilities, roles, responsibilities and state of readiness of:

- (a) Maritime Forces Atlantic (MARLANT) and Maritime Forces Pacific (MARPAF) headquarters, including their respective Joint Task Forces;
- (b) the Joint Rescue Coordination Centres, the Joint Operations Centres and the Marine Security Operations Centres (MSOC);
- (c) the long range patrol and transport and rescue squadrons;
- (d) the Royal Canadian Navy submarine fleet;
- (e) the Royal Canadian Navy Halifax Class frigate fleet, including an examination of the Halifax Class Modernization Frigate Life Extension Program (HCM FELEX); and
- (f) the Royal Canadian Air Force search and rescue and maritime helicopter fleets; and

That the Committee submit its final report to the Senate no later than December 31, 2013, and that the Committee retain all powers necessary to publicize its findings until March 31, 2014.

The Hon. the Speaker: Shall I dispense? Are there further questions? Debate?

Hon. Claudette Tardif (Deputy Leader of the Opposition): Yes. I notice that it is a very detailed proposal put forward for the committee to study, but perhaps the Honourable Senator Wallin can just highlight some of the main things.

Senator Wallin: Yes. I mentioned this yesterday; they are really all spelled out there. This is travel to these two locations — Halifax and Esquimalt, B.C. They are each home to a Marine Security Operations Centre, so that is one of the reasons we are going there. Also, they have joint search and rescue operations co-located. This was travel that was approved for this fiscal year. We were unable to complete that travel, so we would like to do so in the next fiscal year.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Thursday, March 29, 2012, at 1:30 p.m.)

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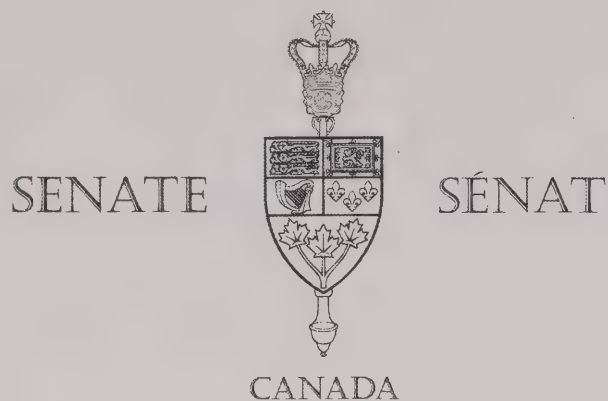
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Thursday, March 29, 2012



The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Thursday, March 29, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

FINANCIAL SYSTEM REVIEW ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-5, An Act to amend the law governing financial institutions and to provide for related and consequential matters, and acquainting the Senate that they have passed this bill without amendment.

[English]

SENATORS' STATEMENTS

TOBIQUE FIRST NATION

FLOOD OF 2012

Hon. Sandra Lovelace Nicholas: Honourable senators, it is called the flood of 2012.

Over the last few weeks I have witnessed the flash flood that devastated Perth-Andover and my community, the Tobique First Nation, in New Brunswick. Over 500 people were evacuated and millions of dollars in damage was reported. There were 14 homes evacuated in my community and hundreds of people were affected. Many elders in my community said this was the worst flood they ever witnessed.

Honourable senators, it was a very sad weekend for the people as a result of this flood. Volunteers from all walks of life worked together, night and day, so people whose homes were affected could sleep.

People from both communities are still working together, with donations of clothing, furniture, personal products and food. It is thanks to them that we will survive this devastation. It was a miracle that no one was hurt, and I thank the Creator for that.

[Translation]

INTERNATIONAL ADULT LEARNERS' WEEK

Hon. Jacques Demers: Honourable senators, I am pleased to speak to you here today to recognize International Adult Learners' Week in Canada, which is being held from March 24 to April 1.

I invite you all to join me in promoting the importance of this international event and to learn more about the efforts and accomplishments of everyone taking part, teachers and learners alike.

Honourable senators, I cannot emphasize enough the importance of education throughout our lives. There is no age limit on learning, and all adults should have the opportunity to improve their everyday lives. I am very honoured to pay tribute to all adult learners and to express my thanks.

Hon. Senators: Hear, hear!

[English]

THE HONOURABLE HERBERT O. SPARROW, C.M.

CONGRATULATIONS ON INDUCTION TO THE SOIL CONSERVATION HALL OF FAME

Hon. JoAnne L. Buth: Honourable senators, I am very pleased to announce that last week, on March 21, 2012, retired Senator Herb Sparrow was inducted into the Soil Conservation Hall of Fame on the occasion of the twenty-fifth anniversary of the Soil Conservation Council of Canada.

In his 37 years in the Senate, Herb Sparrow made one of the most important contributions to Canadian farmers. As most senators, he served on a number of Senate standing committees, but most importantly he chaired the Standing Senate Committee on Agriculture, Fisheries and Forestry. Under his leadership, the committee studied soil health and soil conservation in Canada and published a watershed document entitled *Soils at Risk: Canada's Eroding Future*.

I have spent most of my career in agriculture. When I recently became a senator one of my first thoughts was "Would I be able to make a difference? Who did I know that had made a difference as a senator?" Of course, the first name that came to mind was Senator Herb Sparrow.

• (1340)

Although we have never met, I certainly know of him. Actually, everyone with a background in agriculture is very aware of the tremendous positive impact that he has made on Canadian agriculture sustainability.

One of my first requests when I arrived in Ottawa was to obtain a copy of the report. The Library of Parliament informed me that this was the most requested publication of any produced by the Senate.

Soils at Risk: Canada's Eroding Future was highly influential. It increased the awareness of the seriousness of soil degradation and led to increased government programming for soil conservation and to changes in farming practices.

It is because of Herb Sparrow's leadership that the Soil Conservation Council of Canada was formed and has grown to become one of the most influential agricultural organizations today.

Through his passion and commitment to soil conservation, the Honourable Herb Sparrow made soil conservation a national issue and influenced a change in farming practices across Canada that has made farming more profitable and our farms more environmentally sustainable.

Honourable senators, please join me in congratulating the Honourable Herb Sparrow on his induction into the Soil Conservation Hall of Fame.

ELECTION ETHICS

Hon. Nicole Eaton: Honourable senators, it was a bitter and volatile campaign. Accusations of inconsistency, incompetence and scandal filled the air.

Candidates competed to portray themselves as the true conservative or liberal choice, while voters fretted about the economy and war threatened in the Middle East.

One candidate was a political outsider from a small town. He was a brilliant man and a gifted speaker with the burning desire to gain the highest office.

As the campaign approached, his brother decided that his older sibling needed to learn a few things about how to win an election.

After all, he had many wonderful qualities, but those he lacked he had to acquire.

He had so many potential enemies that he could not afford to make any mistakes. He had to conduct a flawless campaign, with the greatest thoughtfulness, industry and care.

He laid out an election plan. Here is a sampling of his political wisdom: Promise everything to everyone, but only live up to those promises that benefit you. People will be much angrier with a candidate who refuses to make promises than with one who, once elected, breaks them.

Call in all favours. If you have helped friends or associates in the past, let them know that it is payback time. Remind them all that you have never asked anything of them before, but now is the time to make good on what they owe you.

If someone is not in your debt, remind them that, if elected, you can reward them later but only if they back you now.

Know your opponent's weaknesses and exploit them. A winning candidate calmly assesses his opponent and then focuses relentlessly on his weaknesses, all the while trying to distract voters from his strengths.

Flatter voters shamelessly. A candidate must make voters believe that he thinks they are important. Shake their hands. Look them in the eye. Listen to their problems. Give people hope. Even the most cynical voter wants to believe in something. Voters

who are persuaded that you can make their world better will be your most devoted followers, at least until after the election, and then you will inevitably let them down.

Did the advice work? His brother won with more votes than any other candidate, went on to save the republic from a conspiracy, and was eventually given the honourific title of father of his country. Unfortunately, he fell afoul of Marc Antony and was murdered in 43 B.C.

Did I fail to mention that the candidate was Marcus Tullius Cicero, and the election was in Rome in the year 64 B.C.?

Plus ça change, plus c'est la même chose.

I wish to thank Philip Freeman for reminding us of this piece of history in *The Wall Street Journal*.

THE HONOURABLE ASHA SETH

Hon. Don Meredith: Honourable senators, on Saturday, March 24, Senator Consiglio Di Nino, the Honourable Vim Kochhar, and Mr. John Rafferty, CEO and President of the Canadian National Institute for the Blind, hosted a reception celebrating the appointment of Senator Asha Seth to this place. The reception, the proceeds of which will further delivery of the CNIB's essential services and programs, was also supported by Indo-Canadian organizations like the Canada India Foundation, the Canadian Museum of Hindu Civilization, and the Indo-Canada Chamber of Commerce.

My wife and I had the privilege of attending this event, along with Senator David Smith, members of Parliament and friends of our new colleague. It was great to see the outpouring of love and support from the over 200 people who were in attendance to celebrate this community leader who has dedicated her life to serving Canadians.

As our Prime Minister, the Right Honourable Stephen Harper, noted in his greeting that night:

Senator Seth has enjoyed a lauded career as an obstetrician and gynecologist, yet her commitment to service extends far beyond her medical practice. As the founding president of the NIMDAC foundation, Senator Seth has dedicated her considerable talents to supporting organizations such as the Heart and Stroke Foundation, the Canadian Foundation for Physically Disabled Persons and the CNIB. Her active involvement in numerous charities has benefited communities in Canada and around the world.

The Honourable Jason Kenney, Minister of Citizenship, Immigration and Multiculturalism also sent greetings commending Senator Smith on her accomplishments. He stated:

I would like to commend Senator Asha Seth on her extraordinary accomplishments, which are a great inspiration to us all. It is by example that you show us the impact that one individual can have in the lives of others, and that we all play an important role in Canada's multicultural mosaic.

Honourable senators, please join me and members of the community in celebrating the contributions and the appointment of our colleague Senator Asha Seth to this place.

ROUTINE PROCEEDINGS

SENATE ETHICS OFFICER

2011-12 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2011-12 Annual Report of the Senate Ethics Officer, pursuant to section 20.7 of the Parliament of Canada Act, R.S.C. 1985, c.P-1, as am. by S.C. 2004, c.7; S.C. 2006, c.9.

Honourable senators, I wish to read into the record the letter of transmittal, dated March 29, 2012, to the Speaker of the Senate:

Dear Mr. Speaker,

It is my honour and pleasure to submit to you the seventh Annual Report of the Senate Ethics Officer, pursuant to section 20.7 of the *Parliament of Canada Act*, R.S.C. 1985, c.P-1, as am. by S.C. 2004, c.7; S.C. 2006, c.9. It covers the period from April 1, 2011 to March 31, 2012.

Through you, I would like to express my sincere appreciation and gratitude to all senators for the cooperation and support they have provided to me and my office.

Yours sincerely,
Jean T. Fournier.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish draw your attention to the presence in the Governor General's gallery of Mr. Fournier, who will soon retire as the Senate Ethics Officer.

On behalf of all honourable senators, I am pleased to welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

• (1350)

[Translation]

PASSPORT CANADA

USER FEE PROPOSAL—DOCUMENT TABLED AND REFERRED TO FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to section 4 of the User Fees Act, I have the honour to table, in both official languages, Passport Canada's fee-for-service proposal to Parliament.

After consultation with the Leader of the Opposition, the Standing Senate Committee on Foreign Affairs and International Trade was chosen to study this document.

(On motion of Senator Carignan, report referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

FOREIGN AFFAIRS

CANADA'S ENGAGEMENT IN AFGHANISTAN— FINAL REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the 14th and final report to Parliament entitled *Canada's Engagement in Afghanistan*.

[English]

CONFLICT OF INTEREST FOR SENATORS

THIRD REPORT OF COMMITTEE PRESENTED

Hon. Terry Stratton: Honourable senators, I rise today to submit the third report of the Standing Committee on the Conflict of Interest for Senators which deals with revisions to the Conflict of Interest Code. However, before I do that, I would like to pay tribute to Mr. Fournier for his service to this chamber.

I have been the Chair of the Conflict of Interest Committee for just a short while, and perhaps Senator Joyal would like to say something after I have, but I would like to take this time to express my thanks because in working with Mr. Fournier I have found him to be very diligent and cooperative. I would say the best word that I can use for him is "persistent" because he made sure I did not forget what we are trying to get done here.

To you, Mr. Fournier, and your wife, I know you are waiting to be able to get out to British Columbia and not come back here, so for that and for your service here over the years to our chamber and for the help that you have given the committee for the time I have been chair, I thank you very much and wish you good health.

[Translation]

Hon. Serge Joyal: Honourable senators, I am looking at the Deputy Leader of the Government, and I know that we are not following the *Rules of the Senate* by paying tribute to the ethics officer, Mr. Fournier, at this time.

I would like to tell Mr. Fournier how much we have appreciated his knowledge of the Senate as an institution. In carrying out his duties, he took on the heavy responsibility of ensuring one of the privileges of this chamber: to maintain discipline within its walls for each and every senator.

I would like to thank Mr. Fournier. I had the pleasure of working closely with him and with committee members, including the Deputy Chair, Senator Andreychuk, Senator Angus, Senator Robichaud and Senator Carstairs. We always did our best to ensure openness and to respect each member's commitment to upholding the highest ethical standards. Mr. Fournier helped us achieve that goal, and we will always be grateful to him for that.

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, the tribute may not have been in accordance with the *Rules of the Senate*, but it was certainly in accordance with this chamber's rules of good manners and ethics.

[English]

Senator Stratton: Honourable senators, I have the honour to present, in both official languages, the third report of the Standing Committee on the Conflict of Interest for Senators. This report recommends the adoption of the amended Conflict of Interest Code for Senators.

(For text of report, see today's Journals of the Senate, Appendix A, p. 1010.)

The Hon. the Speaker: Is it agreed that we accept the presentation of this report at this time, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Stratton, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NINTH REPORT OF COMMITTEE PRESENTED

Hon. David Tkachuk, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, March 29, 2012

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

NINTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2012-2013.

Banking, Trade and Commerce (Legislation)

| | | |
|-----------------------------------|-----------|--------------|
| Professional and Other Services | \$ | 0 |
| Transportation and Communications | \$ | 0 |
| All Other Expenditures | \$ | 7,300 |
| Total | \$ | 7,300 |

Conflict of Interest for Senators

| | | |
|-----------------------------------|-----------|---------------|
| Professional and Other Services | \$ | 50,000 |
| Transportation and Communications | \$ | 0 |
| All Other Expenditures | \$ | 0 |
| Total | \$ | 50,000 |

(includes funds for sole source for professional services)

Legal and Constitutional Affairs (Legislation)

| | | |
|-----------------------------------|-----------|---------------|
| Professional and Other Services | \$ | 22,500 |
| Transportation and Communications | \$ | 0 |
| All Other Expenditures | \$ | 5,000 |
| Total | \$ | 27,500 |

Scrutiny of Regulations (Joint)

| | | |
|-----------------------------------|-----------|--------------|
| Professional and Other Services | \$ | 900 |
| Transportation and Communications | \$ | 750 |
| All Other Expenditures | \$ | 1,350 |
| Total | \$ | 3,000 |

Respectfully submitted,

DAVID TKACHUK
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Tkachuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[Translation]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

BUDGET—STUDY ON CURRENT STATE AND FUTURE OF ENERGY SECTOR—THIRD REPORT OF COMMITTEE PRESENTED

Hon. Grant Mitchell, Deputy Chair of the Standing Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, March 29, 2012

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

THIRD REPORT

Your committee, which was authorized by the Senate on Thursday, June 16, 2011, to examine and report on the current state and future of Canada's energy sector (including alternative energy), respectfully requests funds for the fiscal year ending March 31, 2013.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

GRANT MITCHELL
Deputy Chair

(For text of budget, see today's Journals of the Senate, Appendix B, p. 1045.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Mitchell, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[English]

CRIMINAL CODE FIREARMS ACT

BILL TO AMEND—TENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. John D. Wallace, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 29, 2012

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TENTH REPORT

Your committee, to which was referred Bill C-19, An Act to amend the Criminal Code and the Firearms Act, has, in obedience to the order of reference of Thursday, March 8, 2012, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOHN D. WALLACE
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Wallace, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[Senator Mitchell]

[Translation]

TRANSPORT AND COMMUNICATIONS

BUDGET—STUDY ON EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY— FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Dennis Dawson, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, March 29, 2012

The Standing Senate Committee on Transport and Communications has the honour to present its

FOURTH REPORT

Your committee, which was authorized by the Senate on Wednesday, June 15, 2011 to examine and report on emerging issues related to the Canadian airline, respectfully requests funds for the fiscal year ending March 31, 2013.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

DENNIS DAWSON
Chair

(For text of budget, see today's Journals of the Senate, Appendix C, p. 1055.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Dawson, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[English]

NATIONAL FLAG OF CANADA BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-288, An Act respecting the National Flag of Canada.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

• (1400)

[Translation]

LONG-GUN REGISTRY

TABLING OF DOCUMENTS—NOTICE OF MOTION

Hon. Céline Hervieux-Payette: Honourable senators, pursuant to rule 58(1)(i), I give notice that, at the next sitting of the Senate, I will move:

That the document entitled "*Canadian experts opposed to the abolition of the long gun registry Bill C-391, 2009-2010*", which contains the names of 298 organizations and esteemed individuals, and which was referred to on March 8 during second reading debate on Bill C-19, be deemed to have been tabled in the Senate and to form part of the official record of the proceedings of this chamber.

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before calling for Question Period, I would like to draw your attention to the presence in the gallery of representatives of the National Hockey League Alumni officials, including Debbie Sittler and Wendy McCreary.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

[Translation]

QUESTION PERIOD

TRANSPORT

AIR CANADA—AVEOS

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate. On Tuesday, March 27, I asked you a question about Aveos. I asked whether your government was prepared to intervene in this matter in order to prevent job losses in Canada. Today I learned that the 412 employees of Aveos in Winnipeg have not received their paycheques. One of the employees, Mr. Whelan, said in an article in the *Free Press*:

[English]

I should have had 150 hours of pay on my last paycheque — two weeks' salary and 70 hours of banked time — and I got zero.

He added:

There's nothing tying us over . . .

These 412 employees have no final paycheque, no severance pay, no pension money, nothing — not even Employment Insurance benefits in the near future.

[Translation]

I will repeat the question I asked on Tuesday: do you not agree that Air Canada must obey the law? Is your government prepared to intervene? This is an urgent matter.

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, obviously the loss of these jobs is devastating to the workers of Aveos. The Minister of Transport, Minister Lebel, has expressed, on behalf of the government, our disappointment at how Aveos has treated their employees during this challenging period of time. The legal advice that the Minister of Transport received stated that Air Canada is in compliance with the act.

In committee today in the other place, I understand that Air Canada stated their commitment to keeping these jobs in Canada. Obviously, as I stated at the outset, honourable senators, this is an unfortunate situation. Aveos is a private company. At the moment, I can only put on the record what transpired today with the Minister of Transport.

[Translation]

INDUSTRY

AIR CANADA—AVEOS

Hon. Céline Hervieux-Payette: Honourable senators, my question is also for the Leader of the Government in the Senate, to help the Aveos workers. I just learned that the minister is as sorry as we are that these people are losing their jobs. We may have some solutions.

We know that the Air Canada Public Participation Act of 1988 stipulated that the Air Canada service centres had to be maintained in Montreal, Toronto and Winnipeg. Three centres are now closed. Minister Lebel refuses to intervene, saying that it is a business matter between two private companies. However, he is part of the same government that came to the rescue of the banks and the automakers like GM and Chrysler to the tune of billions of dollars, when the financial crisis harshly affected their bottom lines.

When will Minister Lebel reopen the dialogue with the Aveos workers and ensure the financial sustainability of the company by taking the same measures that were taken to bail out GM and Chrysler?

In the past, we saw Air Canada employees make sacrifices to save the company. Our legislation allows the government to give a company such as Aveos a new financial structure in order to save it.

Could the minister tell us whether her government intends to help save these three maintenance centres and this company with the help of Aveos workers?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I cannot add anything more than I said in response to Senator Chaput. The legal advice that the Minister of Transport received was that Air Canada is in compliance with the act. That addresses the whole issue of the law.

Air Canada, in accordance with what was the agreement, did state in committee today that they are committed to keeping these jobs in Canada.

Aveos is a private company, as I explained a moment ago. The government, through Minister Lebel, expressed our extreme disappointment at the way the company has treated its workers. It is a private company, but Air Canada has committed to keeping these jobs in Canada. It is to be hoped that the employees of Aveos will find employment with the other companies that Air Canada is planning to do business with.

Senator Hervieux-Payette: Honourable senators, I am not addressing the request to Minister Lebel. I am addressing this to the Minister of Industry, who found a way to save jobs at Chrysler and General Motors, and to support our banks during the crisis.

We are now going through another phase of difficulties with another company. We have dealt with private-sector companies and we have helped them. I am talking about management by assistance, a procedure whereby the employees of Aveos could buy the company that is in difficulty with assistance, both technical and financial, from the government and, probably, private-sector banking.

Why is the Minister of Industry not coming forward to offer help and support so that Air Canada can fulfil its obligation and these workers will get their jobs back?

Senator LeBreton: Honourable senators, Air Canada has already made a commitment this morning to fulfil its obligations.

With regard to the honourable senator's reference to General Motors and Chrysler, I think the circumstances, in the midst of a worldwide economic downturn, involved the auto industry impacting all of the country in many aspects. The agreement with regard to Chrysler and General Motors was an agreement put together not only by the federal government, but also by the provincial government and the government of the United States. I dare say, honourable senators, that it would be quite a stretch to compare Aveos to General Motors and Chrysler Canada.

Senator Hervieux-Payette: Honourable senators, I beg to differ from that opinion. This government recently passed a law to help Air Canada which is, in terms of its financial situation, certainly

not in a good position. We have seen, over the years, that this is an industry where it is problematic not only in our country, but in many countries around the world.

• (1410)

We are dealing with planes on one side and a maintenance centre on the other. I guess it is easy to understand we are dealing with 80 per cent of the airline industry in this country.

Would the leader be prepared to talk to the Minister of Industry to see if he can put together a proposal to sit at the table with Air Canada, with Aveos employees and with people who are willing to come to its rescue and determine how to put together a rescue package for Aveos, which is currently facing a difficult situation?

Senator LeBreton: First, the honourable senator has characterized the government legislation with regard to Air Canada improperly, I would say. The government passed that legislation in the interests of the Canadian economy and the travelling public.

Obviously, Air Canada is a private company and Aveos is a private company. We do know from the testimony we had here in the Senate that there are ongoing negotiations. However, I wish to correct the intent of our legislation, which was in the interests of the Canadian economy and the travelling public.

TRANSPORT

AIR CANADA—AVEOS

Hon. Maria Chaput: Honourable senators, I believe I heard the leader say that Air Canada has made a commitment. Could she tell me what that commitment is all about?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, all I know is that Air Canada, in their appearance before a committee today, stated their commitment to keep these maintenance jobs in Canada in compliance with the law.

Senator Chaput: In the meantime, what do the employees do? They are short of the last two weeks' paycheques. They have nothing to fall back on. What do they do?

Senator Tardif: Good question.

Senator LeBreton: As I stated, this is a devastating situation for the employees of this company. Obviously, the government is concerned that the company would treat its employees this way. I would hope that the company would reflect upon the sacrifices and hardships they are imposing on their own workers and take measures to assist these people in any way they can.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, the Premier of Quebec, Jean Charest, indicated that he has been in contact with the premiers of Manitoba and Ontario to help Aveos workers.

Is the Government of Canada prepared to meet with the premiers of these three provinces so that they can all pool their resources and help Aveos workers?

[English]

Senator LeBreton: Honourable senators, again, Aveos is a private company and Air Canada is a private company. Air Canada made a commitment today to keep these jobs in Canada.

I have not heard or read what Premier Charest has said. I am not familiar with the exact context of when he said it, but I will certainly get further information for the honourable senator.

[Translation]

Senator Chaput: Honourable senators, since the premiers of the three provinces want to work with the federal government to find a solution and since the mayors of the three cities affected in those three provinces have written a joint letter to Prime Minister Harper, I think that this is an excellent opportunity for the federal government, the provincial governments and these three cities to work together to find a way to keep these jobs in Canada. Do you not agree?

[English]

Senator LeBreton: I will simply say to Senator Chaput what I said to Senator Rivest. I will ascertain the context in which the premiers met and what commitments they made, and I will reply if I have anything further to add from the federal government side.

FISHERIES AND OCEANS

PROTECTION OF FISH HABITAT

Hon. Nick G. Sibbeston: Honourable senators, my question today is with respect to matters dealing with the Fisheries Act.

Recent documents made available suggest that the government plans to remove protection of fish habitat from the Fisheries Act. This, of course, will affect situations in the South but also in the North. In that regard, I am very concerned.

Minister Ashfield has not denied the report but says a decision has not yet been made. Nonetheless, it seems clear that substantive changes are planned.

Two former fisheries ministers from the Mulroney government, Tom Siddon and John Fraser, have strongly criticized the proposal. Mr. Siddon says there is no justifiable excuse for the changes, and Mr. Fraser was even stronger in his comments, saying that the proponents of the changes are not real Conservatives. They and other critics suggest that the government is giving in to industry complaints and is trying to smooth the process for the Enbridge Northern Gateway Project in British Columbia.

A letter signed by 625 scientists, many of them prominent, has been sent to the minister asking him to reconsider these moves. They believe weakening habitat protection will make Canada look irresponsible internationally.

Does the government plan to make these drastic changes to the Fisheries Act? If so, what is the rationale for doing so? Has the government abandoned the idea of sustainable development in favour of development at any cost, including our environment?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, first, all these stories are based on a purported leaked document that indicated there were plans to amend a section of the Fisheries Act. No decision — I repeat, no decision — has been made. The government is, though, reviewing fish habitat protection policies to ensure that we are respecting their conservation objectives.

Recent speculation about the review is inaccurate, as I hinted to a moment ago. However, the government has been clear all along that the existing policies can be arbitrary. We have all heard examples about some of these policies, which do not reflect the priorities of Canadians. We will want to focus our activities on protecting natural waterways that are home to the fish Canadians value most instead of focusing on flooded fields and ditches.

With regard to the comments of Mr. Siddon and Mr. Fraser, both of whom I personally know, I was rather bemused, quite frankly, especially when I read the comments of Mr. Fraser, former Minister of Fisheries and Oceans. Of course, he did not have a very good outcome in that portfolio, but we will not go there.

The fact of the matter is that Mr. Fraser —

Senator Munson: Tainted tuna!

Senator LeBreton: — in his comments suggested that the government should have picked up the phone and consulted with him. I can say to Mr. Fraser that the phone works both ways; if he had some concerns, why did he not pick up the phone and call us? He has more time than we do.

Senator Munson: He was one of the leader's friends. In any case, tainted tuna was long ago.

JUSTICE

ILLICIT DRUG STRATEGY

Hon. Jim Munson: Honourable senators, my question is for the Leader of the Government in the Senate. Some honourable senators, as I did, may have noted with special interest the report of leading Canadian public health physicians calling on this government to completely reconsider its drug policy.

Yesterday, the chief medical officers for the provinces of British Columbia, Saskatchewan and Nova Scotia, along with the Co-director of the Urban Health Research Initiative at the BC Centre for Excellence in HIV/AIDS published an article in the peer-reviewed open access journal *Open Medicine*. The article makes a compelling case for the taxation and regulation of marijuana.

I think we all agree that addiction should be considered primarily a health issue and not one of criminal justice. Unlike Canada, U.S. states such as New York, Michigan, Massachusetts and Connecticut are repealing mandatory minimum sentences for non-violent drug offences.

Given that 50 per cent of Canadians already support the legalization of marijuana or cannabis, I think it is time we start asking ourselves, what are we doing?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I think it is clear. The government is very clear in its position on marijuana. We just passed a bill through this place, Bill C-10. I did note yesterday the leader of the third party in the other place asking a rather confusing question on this issue. We are well aware of the views of these gentlemen. The government's position on legalizing marijuana is clear. We do not intend to change that position.

• (1420)

Senator Munson: That is too bad.

As the spokesperson — what is that, Senator Duffy?

Senator Duffy: You're too old for that stuff.

Senator Munson: Well, there was a time.

Senator Duffy: I know.

Senator Munson: Let us not start talking about the National Press Club in the 1960s, 1970s and 1980s, Senator Duffy. That will be another story, but that will be in my book, so do not worry about that — no pictures, just a story.

Some Hon. Senators: Oh, oh!

Senator Munson: My supplementary question is for the Leader of the Government in the Senate. A spokesperson for the Minister of Justice Rob Nicholson noted that the government through its law-enforcement-centred drug policy is not trying to punish addicts. While that may be true, it is clear this detracts from a health-based approach focused on harm reduction. Indeed, in 2001, during the last review of Canada's drug strategy, the Auditor General estimated that of the \$454 million spent annually on efforts to control illicit drugs, \$426 million, or 93.8 per cent, was devoted to law enforcement.

Opponents of drug policy reform argue that shifting our focus from law enforcement will increase drug use, but this, however, is not the case. In fact, the World Health Organization has concluded that countries with stringent user-level illegal drug policies did not have lower levels of use than countries with liberal ones.

Let us look at Portugal, for example. It decriminalized all drug use in 2001, 11 years ago. It has seen reductions in problematic use, drug-related harms and criminal justice overcrowding, all the while maintaining rates of drug use among the lowest in the European Union.

With such evidence, why is the leader's government pursuing drug policies that have already proven ineffective elsewhere?

Senator LeBreton: Senator Munson, Senator Duffy, I do not know whether or not that was a veiled threat, but I can tell you on that subject I will not be in the senator's book because I have no interest whatsoever in any drug.

First, the government did establish a National Anti-Drug Strategy in 2007. If the honourable senator is familiar with that strategy, the focus is on prevention and access to treatment for those with drug dependencies, while at the same time getting tough on drug dealers and producers who threaten the safety of our youth and our communities.

The National Anti-Drug Strategy is made up of three action plans: first, the Prevention Action Plan, which aims to prevent illicit drug use; second, the Treatment Action Plan, which aims to treat those with drug dependencies; and third, the Enforcement Action Plan, which aims to combat the production and distribution of illicit drugs.

It is quite incorrect, honourable senators, to characterize this as a program that does not have a large component of treatment and assistance for people who are, unfortunately, addicted to these drugs.

By the way, in 2009 — a scant couple of years ago — the honourable senator's own leader, Mr. Rae, voted in favour of our drug bill, which was then Bill C-15, so I guess there has been a change of heart along the way.

Senator Munson: Honourable senators, there is one thing on this side of the house: We do have our own opinions and we are allowed to express them. It is an interesting concept.

I would never get into the stories of Senator Duffy or any other senator here.

My third supplementary question is this. Our Defence Minister, Peter MacKay, recently met with his counterparts in the United States and Mexico. They are urging greater military cooperation on the war on drugs. Unfortunately, neither Mr. MacKay nor General Galván, the Secretary of National Defence for Mexico, questioned the prohibitionist drug policies that have proven to be an abject failure. The United States has spent an estimated \$1 trillion since former U.S. President Richard Nixon first declared the "war on drugs." Amazingly, their effort to reduce the supply of drugs through aggressive law enforcement policies has been totally ineffective. Instead, as we know, the prices of more commonly used drugs such as cannabis and cocaine have in fact decreased, while their availability and potency have both risen.

During their meetings, General Galván noted:

Marijuana is what gives drug trafficking networks the greatest resources to continue their nefarious work.

Honourable senators, if marijuana is the backbone of the drug-trafficking trade, would it not then make sense for us to sabotage their monopoly on supply by legalizing or decriminalizing cannabis? Would that not be the most effective policy in the war on drugs?

Senator LeBreton: Honourable senators, I would argue just the opposite. As the minister stated, I would argue that the policies that the government has implemented through our recently passed bill is the way. What we are trying to do is protect our

young people, protect our citizens, and crack down on grow ops and organized crime. I would think that most people would be applauding Minister MacKay and Secretary Panetta and their Mexican counterpart for taking steps in this regard. Anyone who watches the news on a nightly basis knows how serious this problem is and what it is doing to our society.

With regard to the honourable senator's comment that people on his side are entitled to their own opinion, I absolutely agree with him that that is the case; but it is also the case on this side as well.

[Translation]

IMMIGRATION AND REFUGEE BOARD— TRANSLATION SERVICES

Hon. Pierre De Bané: Honourable senators, my question is for the Leader of the Government in the Senate. The Federal Court of Canada overturned an Immigration and Refugee Board decision that came from its Montreal office, because a unilingual anglophone board member accepted into evidence a document written in French, a language that individual does not understand. Unilingual board members usually have access to translation services for documentation and for the hearings, when they take place in the other official language.

Does the government not find it strange that board members who cannot work in French are members of the Immigration and Refugee Board in Montreal, a francophone environment where much of the work is conducted in French, and all this without the benefit of translation services?

[English]

Hon. Marjory LeBreton (Leader of the Government): The Immigration and Refugee Board offers services in the language chosen by the applicant, either of our official languages, English or French. These immigration and refugee individuals are chosen through a rigorous independent and merit-based process overseen by public servants.

With regard to Montreal, 21 members of the board are bilingual; 9 are unilingual francophones; and 2 are unilingual anglophones. Thirty per cent of the applications in that Montreal office are in English and those hearings are held in English.

• (1430)

Honourable senators, we would not want to get into a debate about the individuals working in the IRB and whether the individual is 1 of the 21 who are bilingual, 1 of the 9 who are unilingual francophone or 1 of the 2 who are unilingual anglophone. In all of these cases, the hearings are held in the language requested by the applicant.

Senator De Bané: Honourable senators, I believe that there is a misunderstanding. I am not asking that all commissioners in charge of this administrative tribunal be bilingual. Rather, I am telling the leader that the Federal Court has quashed a decision because the judge did not have the advantage of translation services, and he based his decision on a document written in the

other official language. The fact that the judge's decision was voided by the Federal Court shows that something was missing to support that judge so that he could understand the meaning of the document in French.

Senator LeBreton: I will not comment on a matter that was before the courts. The applicant would have requested a hearing in the language of the applicant's choice. I cannot get into why the Federal Court judge made such a ruling.

In all immigration cases, there are people well qualified and well equipped to deal with applicants in their official language of choice. I am not aware of what happened in this particular case, and I am not sure whether the case has been appealed; but I will not comment on anything before the courts.

I believe that there were erroneous reports about the services available in the Montreal office. I was simply putting on the record the situation in the Montreal office of the IRB.

[Translation]

Senator De Bané: Honourable senators, I would like to ask a final supplementary question.

The Hon. the Speaker: I regret to advise honourable senators that the time for question period has expired.

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

March 29, 2012

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 29th day of March, 2012, at 2:06 p.m.

Yours sincerely,

Stephen Wallace
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, March 29, 2012:

An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2012 (*Bill C-34, Chapter 3, 2012*)

An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2013 (*Bill C-35, Chapter 4, 2012*)

An Act to amend the law governing financial institutions and to provide for related and consequential matters (*Bill S-5, Chapter 5, 2012*)

[English]

ORDERS OF THE DAY

FIRST NATIONS ELECTIONS BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Ogilvie, for the third reading of Bill S-6, An Act respecting the election and term of office of chiefs and councillors of certain First Nations and the composition of council of those First Nations.

Hon. Nick G. Sibbeston: Honourable senators, I am pleased to speak today at third reading of Bill S-6, the First Nations Elections Act.

As I indicated at second reading, this bill is an improvement over the current system of elections under the Indian Act. The bill came about because of the initiatives of the Assembly of Manitoba Chiefs and the Atlantic Policy Congress of First Nations Chiefs.

One of the major changes in this bill, which will improve the elections for First Nations, is the proposed four-year term instead of the two-year term under the Indian Act. Also, there will be a set common date for elections and a provision for appeals to be heard by the Federal Court.

As I also stated, and as was confirmed by the majority of witnesses who appeared before the committee, the bill is not perfect. Just as First Nations organizations were involved in bringing the bill forward, they were able to identify its flaws and propose solutions. Some of those flaws are reflected in the observations attached to the committee's report.

There are still paternalistic elements retained in Bill S-6, and it is still the view of many observers and of the members of the Standing Senate Committee on Aboriginal Peoples that the government does not understand the need for a stand-alone, First Nations-led elections commission and tribunal. I was disappointed when Minister Duncan came before the committee to introduce the bill because when I asked him about the tribunal or commission, it seemed that he was oblivious to the issue, and there did not appear to be any prospect of including such a tribunal in the bill.

The observations in the report deal with these in detail and I commend them to you; they are good reading. The flaws remain, and individual First Nations will have to decide whether they are too great. This is opt-in legislation, and First Nations will get to pass judgment on whether it is suitable.

I truly believe that Bill S-6 could and should have been improved. In fact, I was hopeful that we would make improvements to the bill at committee. I worked diligently on a number of possible amendments. This was after listening to the First Nations who came before the committee. While they applauded and liked the bill, they thought there were certain areas that could be improved. These were the areas for which I proposed amendments.

The issues impacting First Nations are serious and should not be dealt with in a partisan way. I say this in a kind way, but when it came down to a vote eventually in committee at clause-by-clause consideration of the bill, I felt that the members were whipped and told to vote a certain way, which I thought truly lessened our ability to make appropriate amendments.

In the spirit of consensus in the North, which Senator Patterson and I are familiar with, we as a government have worked in the consensual way. We do not have party politics. It is a much improved system from the one we have here, where at times we seem to be divided on partisan issues, which is not good, rather than dealing with the merits of a case.

• (1440)

In the afternoon before the evening meeting when our committee was dealing with the bill clause by clause, Senator St. Germain, the chair, Senator Patterson, the sponsor, Senator Dyck, the critic, and I, who was very involved with the bill, met to deal with some possible four amendments. As a result, three amendments were dropped.

However, one seemed to have the support of everyone. Senator Patterson was assigned to deal with the minister and department officials and see if they would agree with the one amendment. This one amendment dealt with clause 3(1), which would have recognized the difference between bands having elections under the Indian Act and those having their own election codes.

Senator Patterson was sent away to fight for these changes, and we said, "Do not come back without bruises or scratches to show that you really fought to have this amendment approved." We did not hear from Senator Patterson until later that night, at the Senate meeting. When he came back and spoke about it, I did not see any scratches or bruises on his face, and it seemed as if he had changed his mind or had been convinced. He was now extolling the merits of leaving the section unamended, and it seemed as if he was toeing the department line.

We were all surprised. I think there were some miscommunications. I want to say that Senator Patterson did apologize for the miscommunications, particularly with Senator Dyck. I do not raise this issue to embarrass him in any way. I accepted his apology and am more than willing to continue working with him and other senators on our committee in a non-partisan and cooperative way.

That evening, when we were dealing with the one amendment that I had, senators on the Conservative side voted en masse against it and we lost. It was clear that the senators were whipped despite their sympathetic agreement with the amendment. The Conservatives voted against the amendment.

It is a situation where I think we could have improved the bill. We could have satisfied the First Nations who had concerns. Unfortunately, some partisan matters got in the way of it.

Who loses in a situation like this? First Nations really lose. One of the debates I made at the time was to free the First Nations people of our country because they have been subject to paternalism and bureaucratic control for so long. I saw the bill as an opportunity to free, in some small way, the choices and, consequently, the lives of First Nations people.

In the end, all we were able to effect were observations, the main one being that there ought to be a First Nations elections commission and tribunal. We hope someday that will come about.

I believe that all members of the Standing Senate Committee on Aboriginal Peoples are truly committed and sincere in trying to improve the lot of First Nations in our country. I hope in the future that no senator is whipped or told to vote in a particular way. I think the Aboriginal situation in our country needs all the help, improvements and love we can give to it in our work in Parliament.

Only in this collective way can we do our jobs as senators to amend legislation where it will improve the lives of First Nations in our country. I look forward to working with the committee members to make this happen.

Hon. Dennis Glen Patterson: I wonder if the honourable senator would entertain a question.

Senator Sibbeston: Yes, as long as it is not meant in a way to put me down.

Some Hon. Senators: Oh, oh.

Senator Sibbeston: Just say no.

Senator Patterson: With that caveat, I would like to go forward with my question.

I have the greatest of respect for the honourable senator on the other side with whom I have worked for many years in a consensual fashion, as he said. Having mentioned that I expressed my apologies for not having communicated with Senator Dyck, the deputy chair of our committee, about my efforts to ask the minister to consider the proposed amendments, I wonder if the honourable senator would acknowledge that his assistant, Mr. Trenholm, was informed that afternoon about the results of my discussions with the minister.

Senator Sibbeston: Yes, I can confirm that Senator Patterson did contact my assistant. He was able to tell him of the results of his efforts and did indicate that he was not successful. I did know. I did not hear from him directly, but through our assistants, I was able to know that he had not been successful.

(On motion of Senator Tardif, for Senator Dyck, debate adjourned.)

[Translation]

CERTAIN GOVERNMENT BILLS

FIRST REPORT OF SPECIAL COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Senate Committee on Certain Government Bills (*name change of the committee*), presented in the Senate on March 27, 2012.

Hon. Hugh Segal moved the adoption of the report.

(Motion agreed to and report adopted.)

[English]

INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA'S DOMESTIC AFFAIRS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada's domestic affairs and their abuse of Canada's existing Revenue Canada Charitable status.

Hon. Nancy Ruth: Honourable senators, I rise to speak to Senator Eaton's inquiry with respect to foreign foundations in Canada.

If there is merit to this inquiry, it is in reminding us all that Canadians like to be vigilant about the relationship between funding and whose interests are being advanced. The reality for Canada has always been and will continue to be that there is foreign money all through Canada's development, including our oil and gas development.

I will begin by saying that I support the pipelines.

• (1450)

At the same time, I have three concerns about the inquiry. First, if there is going to be an inquiry into foreign influence on Canada's domestic policy, why is the net being cast so narrowly? Why are charities the only entities being subjected to such scrutiny? Second, what concrete evidence substantiates the claim that foreign foundations have pushed Canadian groups into taking positions that they would not otherwise have taken? Third, why are the existing mechanisms for policing the activities of Canadian charities considered inadequate? I will elaborate on each of these concerns.

First, why are Canadian charities the only target of the inquiry? Canadian NGOs comprise one set — but only one set — of actors involved in the pipeline debate. If the concern is about foreign

influence, then why is the inquiry not considering the lobbying efforts of foreign corporations with huge interests in the development of the oil sands and the construction of the pipeline? Why is the inquiry not considering the lobbying efforts of Canadian corporations with foreign investors?

Enbridge is a Canadian company by any measure. The Northern Gateway, however, will be built with the involvement of funding participants. Although it is not yet known who all the funding participants will be, we can anticipate that there will be a mix of Canadian and foreign investors. To what extent are foreign governments, which are eager to secure new sources of energy and whose companies may have direct interests in the export of Canadian oil and gas, seeking to influence our domestic policies?

Many charities in Canada receive donations from foreign sources every year. Yet the inquiry only focuses on those charities engaged in environmental issues. It does not appear to be concerned about advocacy undertaken by other Canadian charities that receive foreign donations. To quote Jim Flaherty, "all charities undertake advocacy." Again, why the narrow, exclusionary focus?

In our discussion, it is critical to remember that non-governmental organizations, NGOs, play vital roles in a democracy and many are partly funded by our government. Charities comprise a subset of NGOs that have charitable status. NGOs provide expertise and experience that can assist government officials in reaching more informed decisions.

My second concern is: Where is the evidence?

What concrete evidence substantiates the claim that foreign foundations have pushed Canadian groups into taking positions that they would not otherwise have taken? I doubt these groups are ciphers for foreign interests, having only opinions and no expertise. Those calling for an inquiry have made allegations of interference, abuse, political manipulation, influence peddling, money laundering, support for terrorism and active engagement in elections. Such serious charges must be substantiated with concrete proof.

Even if the Canada Revenue Agency required Canadian NGOs and foundations to publicly list all their foreign donations, what evidence is there that this money has pressured and manipulated Canadian groups into taking positions that they would not otherwise have taken? Could it not be that Canadian charities went looking for financial support, both within and without the country, to support their positions? We live in a global culture with global ideas.

Third, why are existing mechanisms deemed inadequate?

There is an implied criticism of Canada's mechanisms for regulating charities. Serious allegations have been made about the charitable sector. The accusations are expressed as generalities and not as concrete examples of charities breaching Canada's advocacy or lobbying rules. For example, they have been referred to as phantom charities, masquerading charities and shell foundations. They have been accused of using the majority of their resources for political activities and lobbying.

I would draw honourable senators' attention to Senator Wallace's review of the way advocacy is regulated by the Canada Revenue Agency. Charities cannot devote more than 10 per cent of their total resources a year to political activities; that is 10 per cent of all their money from all sources. This is not the majority of their resources. This is not the other 90 per cent of their resources. Every charity must make annual public disclosure of its ongoing programs, its new programs, whether political activities were undertaken, and how much was spent on them. Furthermore, there must be disclosure to the Canada Revenue Agency of donations over \$10,000 by any donor that was not a resident of Canada.

In short, the CRA has information on a charity's programs, its advocacy activities and its foreign donors. Hence, CRA is positioned to deal with abuses.

If one wants the CRA, the NGOs or charities to make foreign monies public, then that is fine with me if it does not infringe on the Canadian laws of privacy and the principle of confidentiality of tax. More transparency suits me, as it would let me see who is funding Ethical Oil and who its puppets are. Kathryn Marshall on *Power and Politics* on January 11, 2012 refused to identify Ethical Oil's supporters. However, even if this information was public, it would not give evidence that foreign monies sway Canadian minds.

In closing, I want to reinforce the importance of holding fair, inclusive and transparent hearings on the Northern Gateway pipeline. Continuing to argue that the review process is radicalized, hijacked and stacked may be a pre-emptive strike, but it is worth reflecting on what is being damaged in the process.

What is really being advocated is that some groups should have influence and others should not. What is really being advocated is that some points of view cannot be questioned, while others are a waste of time and cause delay.

The joint review panel needs to hear all points of view on both public interest and environmental assessment. To suggest that the joint review panel process has been hijacked by one set of interests, in this case the environmental interests, does a disservice to the whole process and risks undermining its credibility with Canadians. It is also contrary to the democratic principles that I hope all of us still hold dear. Thank you.

Hon. Dennis Glen Patterson: Honourable senators, I am pleased to rise today to speak on the subject of Senator Eaton's inquiry. First, let me make it clear where I stand. I care about the environment. I represent in this chamber, and have great respect for, the Inuit of Nunavut who, more than many other people in Canada, are spiritually bonded to the land and depend on its natural renewable resources more than most urban Canadians. I believe the original inhabitants of the North should have a primary role in determining what happens on their lands and waters, a role which is guaranteed in the Nunavut land claim.

I believe in the Inuit land claim, which established the co-management boards with guaranteed representation from Inuit and governments to consider resource development issues, from socio-economic and environmental impacts, to protection of water, land-use planning and wildlife management.

I believe in informed, balanced public debate on environmental and resource development policy. We Canadians are proud of our great country and its abundant natural resources. It is in our own best interest to safeguard these resources and ensure they are managed sustainably. We cherish our freedom of speech in Canada and I do not seek to muzzle public debate. However, I do think that Canadians, through their elected governments and the indigenous residents of affected regions, should be the ones to decide on the balance we all seek between environmental protection, social development and resource development.

What is the problem? U.S. and foreign-funded interest groups are spending vast amounts of money helping, they would say, to provide information and increase awareness of environmental issues in Canada. How could we be critical of that? How could we not welcome many millions of dollars that are being channeled into Canada by foreign donors to help us take care of our environment?

• (1500)

The first problem, as honourable senators will see, is that in some cases these groups are presenting inaccuracies, misinformation and only telling part of the story.

Second, thanks very much, but we do not need help. We have a flourishing democracy. We have institutions which have been established to provide a balanced and transparent forum for considering environmental impacts and benefits.

We do not need interference and manipulation from outside, even from our good friends in the U.S.A., and even from the European homelands of many Canadian settlers. If they want to set aside their own environmental challenges, U.S. citizens' obscene consumerism; their rapacious consumption of fossil fuels and water; their extensive coal-fired power plants; their obsession with cars; and if the Europeans want to overlook the destruction of their forests, natural environment and massive unpublicized and wasteful slaughter of what they consider animal pests, let them send their money to the developing world. We do not need foreign aid in Canada. In fact, there are some who would say that instead of calling this foreign aid, we should describe this phenomenon as making philanthropy an instrument of foreign policy. We do not need that help either. We can make our own made-in-Canada policies.

We in Canada cherish our sovereignty over lands and resources in the North, but sovereignty also means control over our right to determine our destiny in an environment where foreign, economic and trade interests are not exceeding the limits of political activity masquerading as environmentalists. In my research, I have come to realize that even remote Northern Canada is the recipient of foreign aid aimed at helping us to make decisions about managing our lands and resources.

I am participating in this inquiry because I respect our rights as Canadians to manage our lands and resources. I believe this right is threatened by unreported, unaccountable, foreign influences in public policy making, misinformation, bad science and non-permitted political activities.

Foreign money is flooding into Canada to influence public policy in Canada and in the North. In the last 10 years, Canadian environmental groups have reported to the Canada Revenue Agency a staggering \$2.4 billion in total revenue. Ducks Unlimited took in \$970 million. Another, Tides Canada, took in \$173 million. They took in so much money they could not spend it all, so they socked away \$40 million. They now have 250 employees; 10 years ago they had 9. The David Suzuki Foundation took in \$80 million.

As I will demonstrate, this money is even flowing into the remote regions of Northern Canada.

Why is this so important and of such concern? I believe foreign funding is a concern because it is coming from foreign foundations with agendas that are not necessarily in the best interests of our country and because these groups have become immensely powerful. Aided by press which oftentimes repeats misinformation without independent verification, they get the public worked up against the seal hunt, against the oil sands and against polar bear harvesting. They have sophisticated websites. They run ads.

These charities often thrive on misinformation or incomplete information. Coca-Cola, working with the World Wildlife Fund, is at this moment funding a campaign to convince the public that Canada needs to create what they call "the last ice refuge" for threatened polar bears in the Canadian Arctic. Never mind that the scientific research they are sponsoring is yet to be completed, or that Inuit hunters say polar bears have never been more plentiful.

Another problem I see is there is not enough transparency. I know a senior employee of Oceans North in Canada, another environmental group which has targeted Northern Canada. He is a good guy, a Newfoundlander, a sealer and a fisherman. I met with him recently to get a briefing on Oceans North and ask him some questions. Oceans North employs five people working in Canada, three in the U.S., plus consultants, has funded three major studies and a conference, and spent money on 45-foot refitted trawler research vessel and a four-person crew to study whale migrations in Lancaster Sound last summer. The trawler got stuck in the ice and could go nowhere, by the way. However, that senior employee could not tell me what Oceans North's budget was, nor what was the source of their funds, other than to say that he believed that the American Pew Foundation's money was filtered through Ducks Unlimited to Oceans North.

The Pew Foundation, according to their 2009 annual report, has annual revenues of \$360 million, assets of \$5.8 billion and its CEO reportedly earns \$1 million a year. The Pew Foundation — which is named after an American oilman who made his fortune from, among other sources, Suncor, the great Canadian oil sands company — is disbursing funds to Oceans North through a Canadian charity.

Under our present laws, Canadian charities are required to disclose only minimal information about donations or gifts from foreign sources and need not reveal the purposes for donations.

Honourable senators, it therefore seems that not enough transparency is required of non-profits. We need to know more about the source and purpose of their funds, especially their

foreign funding. It is hard to find out, because the funds are channeled through what I have learned can be a very tangled web, which in some cases includes public relations firms, including those active in some prominent political campaigns, and some owned by Canadians but receiving significant foreign money through charities.

Greater transparency would help us to better understand the motives and objectives of the donors. Yet our limited requirements on reporting for Canadian charities seem to allow massive non-profit corporations from foreign countries to donate to campaigns which sometimes seem to be engaged in improper political activity without enough scrutiny. If their own Canadian representatives do not know how much money is spent and how it is channeled, then how can Canadians? How can we consider what the true motivations might be?

I believe there may be much more to the environmental movement in Canada than meets the eye. If we look behind the fuel quality directive initiative in the European Community, we might find American charitable foundation money, directly or indirectly, undermining economic growth in Canada. Is this to benefit U.S. business interests?

The Great Bear Rainforest initiative, the Coast Opportunity Funds project area and the Pacific North Coast Integrated Management Area propose to restrict shipping in a huge area which covers the entire strategic course north of British Columbia, from the northern tip of Vancouver Island to the southern tip of Alaska. The Great Bear Rainforest initiative is aimed at protecting the habitat of the iconic spirit bear, even though its habitat is only a tiny fraction of that area.

Honourable senators might then ask: Why would U.S. interests want to strand Canadian oil in Canada, restricting Canadian oil exports overseas, forcing Canada to export only to the U.S. market for its abundant energy sources? The answer may lie in a study done by University of Calgary economist Michael Moore, who studied this question. Professor Moore noted that due to the lack of alternative markets for our oil, Canada pays a significant discount on oil sold to the U.S., a discount which is not small change. Over 15 years, Professor Moore estimates that this discount robs Canada of \$130 billion in oil revenues. Is it conceivable that by working to shut down the oil sands and ban tanker traffic on the West Coast, American foundations are working to advance the interests of the solar and wind industries in the U.S.?

The Energy Foundation, which has had more than \$500 million in revenue in recent years, admits very plainly that it seeks to develop a renewable energy market worth \$65 billion over the next 15 years. These American groups state clearly that the purpose of their campaigns against what they call "dirty energy" is to sway investment capital towards what they call "clean energy."

This may sound sinister, honourable senators, but think about this for a minute: Why do many environmental activists seem to pick their causes in Canada and ignore others? Why polar bears and not elephants? Why Canadian seals and not muskrats in

Europe? Why the oil sands and not coal-fired power plants? As has been verified by a recently published independent analysis, coal-fired power generators emit a lot more greenhouse gas than all the oil sands operations combined. They seem to have been given a pass by environmental activists, even though they are ubiquitous in the U.S., Ontario and Alberta.

My other big concern about some of these unaccountable environmental organizations, with their camouflage budgets and convoluted financial structures, is that they are sometimes using bad science and misinformation and getting away with it, aided by lazy journalists. Examples abound.

An environmental group called Corporate Ethics says the oil sands cover an area larger than England. This self-labelled ethics organization does not let the facts get in the way. Here are the facts: England is 130,000 square kilometres. The oil sands are 660, including a lot of remediated lands. That is exaggerating the truth roughly 200-fold.

• (1510)

The public has been made to believe that people in Fort Chipewyan have high rates of cancer even though the respected Royal Society of Canada has clearly shown there is no credible evidence to support the commonly repeated media accounts of excess cancer in Fort Chipewyan caused by contaminants from oil sands operations.

All this hysteria generated by questionable science has one great benefit for fundraisers. It is very effective in generating gobs of money from well-intentioned but impressionable people who often live in polluted cities and have little or no understanding of Canada's natural resources and know nothing about the North. Resultant hysteria can be mobilized to pressure governments to change policies or reverse decisions.

I watched as this happened three summers ago in the High Arctic of Nunavut. Canada announced the establishment of a marine conservation area in Lancaster Sound in 2009. No oil and gas development would be allowed. This is in keeping with one of Oceans North's stated objectives.

Oceans North became involved. Their Nunavut director, as a spokesperson for Oceans North, began to whip up public sentiment against seismic testing, which was aimed at delineating the boundaries of the marine conservation area, not oil and gas exploration. He was interviewed on the radio rallying public support against the seismic testing. He made public statements exhorting the Government of Canada to stop seismic testing in Lancaster Sound. He not only exhorted the Government of Canada to reverse a decision made following the approval of regulatory authorities, he also turned his sights on a minister of the Government of Nunavut saying in a press release at the height of the controversy:

We urge Nunavut Environment Minister Daniel Shewchuk to intervene and not issue the permit for seismic work in Lancaster Sound.

Remember what Senator Wallace said earlier in this inquiry in his thoughtful discourse on the permitted political activities of a charity under Canadian law.

McGovern v. Attorney General defines political purpose as not being permitted to procure a reversal of government policy or particular decisions of governmental authorities in this country.

To me, the actions of Oceans North as a charitable organization in publicly pushing for a minister of the Crown to overrule an independent quasi-judicial co-management board set up under the land claim is political activity not permitted under our laws.

In closing, I want to make the following recommendations: Canada Revenue Agency should require more disclosure from Canadian charities, at least as much as the U.S. Internal Revenue Service requires from U.S. charities. The IRS requires non-profits to file a complete list of all grants made, including the name of the recipient, the stated purpose and the amount.

The IRS makes public all this information, whereas the CRA, which collects some grant information, recipient and amount, does not make all the information public. The CRA should investigate and expose charities that pay staff and directors excessively and channel charitable funds for other purposes through charities or public relations firms. The IRS requires non-profits to report the salaries of the highest-paid employees, their names and the actual amount they are paid. This same information is required for the five highest-paid contractors. CRA requires non-profits to report the number of employees in each income bracket but not the names nor specific amounts.

The Canada Revenue Agency should monitor more closely spending with respect to political activity and withdraw or revoke charitable status from charities that exceed permitted spending or engage in non-permitted activities.

[Translation]

Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker): Honourable senators, Senator Patterson has run out of time. Would the senator like to request more time?

[English]

Senator Patterson: May I have five more minutes? Thank you.

In closing, I want to make the point with regard to the issue in Nunavut this summer that regardless of what one thinks about seismic testing in Lancaster Sound in the summer of 2010, I do not believe that charitable organizations should be allowed to engage in political activities that are not permitted, such as openly pressuring governments to make certain decisions. We should know more about where their funding is coming from, how much they are spending and for what purpose, and what proportion of their budgets are devoted to political activities. Our laws can be improved in this regard.

Finally, honourable senators, I would like to acknowledge and thank Vivian Krause, who has done research and published articles in the *Financial Post* on the subject of American money influencing environmental activities in Canada.

Hon. Jim Munson: Would the honourable senator accept a question?

Senator Patterson: Yes.

Senator Munson: Speaking about transparency and about foreign money flooding into this country to produce oil from the oil sands in Alberta, the multinationals that are already here producing this “ethical oil” and that have carte blanche on where this oil is diverted to, how much money they spend and the amount of money these foreign oil companies make —

Senator Tkachuk: What does that have to do with charitable donations?

Senator Munson: It is about transparency — the transparency of oil companies — and, of course, the poor impoverished lobbyists here in Ottawa who are walking the streets with their pockets empty before they start to lobby government on so-called “ethical oil.”

In the interests of transparency and this inquiry, would the honourable senator agree that we should bring oil corporations, multinationals and these impoverished lobbyists to the inquiry so that we can have a bigger picture —

Senator Tkachuk: You asked that same question —

Senator Eaton: What does that have to do with it?

Senator Munson: It has everything to do with it because it is about transparency. It is all about transparency.

Senator Patterson: With all due respect to the honourable senator, the subject of this inquiry is the interference of foreign foundations in Canada’s domestic affairs and their abuse of Canada’s existing CRA charitable status.

I am all for transparency. It was the honourable senator’s prime minister who decided that corporations should not be allowed to contribute to political campaigns so that politicians would be free from the influence of large corporations. In that spirit, I am advocating transparency and openness with respect to charitable foundations. Perhaps there are other areas that should be examined in other inquiries. I encourage the honourable senator to take an initiative on those. However, this is about charities and the full transparency that is needed but lacking at the moment.

[Translation]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, this inquiry was adjourned in Senator Cowan’s name. Senator Cowan would like to speak to the motion shortly. Will Senator Segal agree to the inquiry being adjourned once again in Senator Cowan’s name?

Senator Segal: Yes.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

(On motion of Senator Tardif, for Senator Cowan, debate adjourned.)

• (1520)

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, April 2, 2012, at 6 p.m. and that rule 13(1) be suspended in relation thereto.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Monday, April 2, 2012 at 6 p.m.)

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